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THE

TRIAL

OF

Mr. THOMAS SAXELBYE,

ON A CHARGE OF

Forgery of a Will,

WHEREOF HE WAS

HONORABLY ACQUITTED.

TRIED AT THE

Old Bailey Sessions House,

LONDON,

On SATURDAY, the 8th Day of DECEMBER, 1821,

BEFORE

THE HONOURABLE MR. JUSTICE BAYLEY, AND

THE HONOURABLE MR. BARON GARROW.

TAKEN IN SHORT HAND BY

WILLIAM BRODIE GURNEY, Esq.

SHORT HAND WRITER TO BOTH HOUSES OF PARLIAMENT.

LONDON:

PRINTED BY LUKE HANSARD AND SONS,

AND SOLD BY MESSRS. BALDWIN, CRADOCK AND JOY,
PATERNOSTER-ROW;
AND MR. WILSON, AND ALL THE OTHER BOOKSELLERS
IN HULL.

1821.

Saxelbye

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THE

TRIAL

OF

THOMAS SAXELBYE.

SATURDAY, 8th DECEMBER 1821.

The defendant was arraigned, and pleaded,
Not Guilty.

Mr. Adolphus. IT is desired that all witnesses on both sides should be out of court; those gentlemen who attend from public offices, to produce records, need not go, nor any persons who attend to give the prisoner a character, but all others must retire.

[*The witnesses retired.*]

The Jury were charged with the prisoner in the usual form.

The indictment was opened by Mr. Brodrick.

Mr. ADOLPHUS.

May it please your Lordship,
Gentlemen of the Jury,

YOU have gathered from the short hearing of the contents of the indictment, that the crime imputed to the prisoner, is that of having, after the decease of a person, forged and altered and put away, as a true will, a false and counterfeit will, the intent of it being to deprive those who by law were entitled to the succession to that deceased person's property, and to vest that property in another person.

Gentlemen, it is not my duty nor is it my intention to lead you one step towards a conclusion in this case, by speaking of the enormity, or saying one word in aggravation of the offence; the law has pronounced all which is necessary, by inflicting upon it the highest punishment known to our laws; it will be for me only to state the facts which I am instructed I shall substantiate by proof; and if I do substantiate them, you will have the duty of pronouncing the prisoner guilty; if, on the contrary, my proof fails, or if the circumstances which I conceive to be proof of this charge, are satisfactorily met by circumstances on the part of my learned friends, you will have the more satisfactory task of pronouncing the prisoner not guilty, and of sending him away a free man; which of those will be your conclusion, it is not for me to assert. I am here to do my duty as an advocate, my feeling and my persuasion has nothing to do with it; your feeling and your persuasion, after having heard the evidence, is that which is to decide, and to that I shall address the facts.

Gentlemen, the circumstances out of which this prosecution arises, are these: in the year 1815, there lived at Hull, a gentleman of the name of Thomas Robinson, of the age of twenty-eight, a bachelor, possessed of property to the amount of between fifteen and twenty thousand pounds; being a bachelor he lived in the house of his mother-in-law, the widow of his father, but not his own mother; he boarded and lodged with her. She had besides an annuity of 250*l.* charged upon the estate of her deceased husband, the present deceased's father. About the beginning of May 1815, this gentleman, Thomas Robinson, was seized with a disease which in seven days terminated his existence; he died on the eighth. Immediately

upon his death, his mother-in-law, who alone was in possession of the house in which he lived, and of all his property remaining in it, made diligent search and enquiry to find whether there was a will, and it was for a long time supposed he had died intestate; however, upon a search among his papers, this paper was found, which was sent up to London, and attempted to be proved as a will, "The contents of the whole of this property," and then there is part of a word torn off, so as to leave only the syllable—ing,—"the money and the conveyance of a house in Albion Street, is dedicated to Mrs. Eliza Robinson, my father's late relict." This paper was sent up to Doctors Commons, and attempted to be proved as the will, as early, I believe, as the month of May or June, in the year 1815, after the decease of Mr. Thomas Robinson. Upon that a suit was instituted in the court, and the court declared that this paper was not in any sort to be considered as a will, and that unless a will, or some testamentary paper, which could enable the court there to act upon it as a will, was produced, on or before the 5th day of September, a decree would be issued by the court, that the deceased had died intestate, and that his next of kin had succeeded to his property, and this of course would have put his mother-in-law, who was not his next of kin, quite out of possession of his property, and frustrated all her hopes; but on the 3d of September, just at the close of the time at which the court was to make that decree, comes out of the hands of Mr. Saxelbye, the prisoner at the bar, a paper to this effect: "The whole of my property I wish to give my mother-in-law, if she survives me; my uncle having bad conduct, I hope she will be good to him, when she finds it necessary." Signed, "Thomas Robinson." And this paper so opportunely produced, is that paper which we state to

have been a forgery by Mr. Saxelbye, and to have been uttered by him at Doctors Commons, for the corrupt purpose of procuring the property to the mother-in-law, and of depriving the heirs of it.

Gentlemen, I shall proceed to state very shortly the circumstances on which is founded the charge of this having been a forgery, and the defendant knowing it to be so. In the first place, I am told I shall prove to you by witnesses, who as far as the knowledge of those writings go, cannot possibly be mistaken, that the words "Thomas Robinson," subscribed to that paper, are not of the hand-writing of the person deceased. I shall prove that to you by persons who were in habits of intimacy with him, by persons to whom he had pointed out certain peculiarities in his signing his name, which peculiarities are not there, by persons who transacted business with him on all occasions, and who well knew his hand-writing, and by a gentleman in the banking house of Messrs. Pease and Company, to which his checks constantly went in, and who will tell you, that if a check came in, signed as that was, they would not have paid money upon it. The words above it are avowedly in the hand-writing of Mr. Saxelbye.

The account the defendant gave of this paper when he came up to Doctors Commons, in order to prove its genuineness, I will read to you, as they appear upon the deposition, because it will form a very material document in this case. Mr. Saxelbye, in that paper, states, "that on the afternoon of Sunday, the 30th day of April, of the year 1815, or last year, after dinner, as he usually did on Sundays," that is, Mr. Saxelbye, "being about two or three o'clock, he called upon the deceased, Thomas Robinson, whom he then found in a parlour, on the ground floor of the house of the said Eliza Robin-

son, apparently ill in bodily health, and being then ill of the illness whereof he died. That when he first entered the said parlour, the said Eliza Robinson was sitting in company with him; and deponent having asked him general questions as to his health, which the said deceased answered soon after he went into the said parlour, the said Eliza Robinson left the same, and the said deceased and deponent were then alone together; and deponent, seeing that he was poorly in his bodily health, and thinking it a pity any person having property of consequence to leave, should die without a will, when they were left alone, as by him last deposed, addressed himself to the said deceased, and said, that he hoped he had settled his affairs, or made his will, or to that effect; to which the said deceased replied, I have not done it, but I will be obliged to you to do it for me, or to that effect, and then said something about his not liking attornies; whereupon deponent told him he would get it done, and then immediately taking out of his pocket a piece of paper, being a piece of a letter, asked the deceased how he would have it done, meaning how he would leave his property, and the said deceased then saying it, meaning his said will, would be done in a few minutes, then by word of mouth gave the deponent instructions for making his said will; and agreeably to what the deceased so told him, deponent wrote on said piece of paper, and what he had so written being very short, he, the deponent, read over audibly and distinctly to the deceased; and he then asked him if he approved of it, meaning what he had so written; to which he, said deceased, replying yes, the deponent asked him, as he thinks, to sign it, and, as he now best recollects, the deceased having the said piece of paper in his hand, did himself also peruse

what deponent had so written thereon. That he well remembers, after the same had been by the deponent read as aforesaid, and deceased had signified his approbation thereof as aforesaid, he the deceased having a pen in his hand, subscribed his name thereto, and then gave it to the deponent, and said it was right. That it was what he wished, and desired deponent would get his will drawn from it; and the deponent then received the said paper writing, with an intention of getting a more formal will drawn up; and having been with the deceased on said occasion about three quarters of an hour, he left him, and brought away with him said paper writing, which is as follows:" then it follows in the words I have already read to you, which I will not trouble you with repeating. The deponent then says, " that it is now produced to, and carefully viewed by him, and that it refers to what is by him pre-deposed, and says, that he knows that the name, Thomas Robinson, appearing subscribed to the said will, was and is of the proper hand-writing of the said deceased, who did as by him pre-deposed, write and subscribe the same as now appears thereon, in the presence of this deponent; and this deponent further says, that the said will," which is the paper last mentioned " of the said deceased marked with the letter B, remained in the custody and possession of this deponent, from the time of said deceased signing the same as aforesaid, and his then receiving it, until one day, happening about two or three months after the said circumstance, but particularly as to time he cannot depose, when he delivered the same to Eliza Robinson; and having perused the same as aforesaid, he says, that the same appears to him to be, and is, as he verily believes, in the same plight and condition, in every

respect, as when he read the same over to, and the same was signed by, the said deceased as aforesaid; and further he cannot depose."

This, Gentlemen, is the whole of the prisoner's deposition upon the occasion when this, which we charge to be a false and counterfeit will, was produced, and successfully set up as a true will. Gentlemen, it is from that act, and from the contradiction that can be given to it, as well as from the falsification of the hand-writing, which I propose to give, that you must gather whether or not the prisoner at the bar was a guilty party in making, forging and uttering as true, the paper now produced to you as a will.

I will take his deposition part by part, and state to you the contradictions I mean to offer to it; he says, that on the afternoon of the 30th of April 1815, he called after dinner, as was his custom upon Sundays, to see the deceased Thomas Robinson; that he found him alone, and that he sat with him alone from two to three, or beginning at two or three, and passing from that onwards three quarters of an hour. I shall produce to you a servant in the family, who had been there for years, who will state to you, that so far from its being Mr. Saxelbye's custom to come there on a Sunday, he never was there on a Sunday; that during the time she was there, he was never in the house but once, and that on a very cursory occasion; and that so far from being on those intimate terms with Mr. Robinson to be there frequently, he was almost a stranger in the house. This servant will depose to you, that on Sunday the 30th of April, he never was within the doors at all; that it was not true that Mr. Robinson was alone in his mother-in-law's parlour on that day, at the time in question, for that a person called on him before one o'clock, and staid with him to

dinner; that he dined with his mother-in-law and a female relation of his, and a gentleman whom I shall call to you, who I believe was a relation of his (however it is not material whether he was a relation or not), was there from about one o'clock for all the rest of the afternoon; that the prisoner at the bar never was there in any part of that day at all, and particularly not that part of the day, for that they were with him, and that he never did leave their company for two minutes in any part of the day. Gentlemen, if these facts shall be proved to you they will afford a complete contradiction to that part of the story. The circumstances under which this gentleman is supposed to have made his will, are stated in this deposition to have taken up three quarters of an hour; and I do not see, according to the statement in the deposition, how they could take up less; that is a great period of time; the fact of its having been done at all, I shall have to contradict to you by the means I have stated. Gentlemen, I shall also prove to you, that on the 30th of April, Mr. Robinson was well and cheerful, and not in any apparent state of ill health, such as should call on any person who was with him to be concerned as to his making his will; that he was well and took his wine as usual, and appeared as on all preceding occasions.

Gentlemen, it may perhaps be said, that some variation in his hand-writing which may enable my witnesses to say that it is not his, may have been occasioned by his having written that on the 30th of April, when he could not hold his pen and write as usual, I shall convince you to the contrary of that, by producing to you an attorney, in whose presence and by whose desire he executed a deed of great importance to him, a conveyance of an estate the following day, the 1st of May, when he

began to be ill of the sickness that carried him off, but which he signed in the usual way, and as fairly and well as ever he wrote in his life; consequently it cannot be, that infirmity should have altered his hand-writing on the 30th of April, when he was able on the 1st of May to write as usual, and in a manner very different from that set up as his hand-writing.

Gentlemen, I have already mentioned to you that this suit was going on for a long space of time, and that the final termination of it was fixed for the 5th day of September. I shall shew you, that during the whole progress of that suit, while the parties were in the distress that must be occasioned by such a suit being liable to be dismissed, to the prejudice of the client, Mr. Saxelbye was daily at the office of the attornies; that he went to the Post-office, received the letters, and conferred upon them on the subject of the first will produced, which we will call letter (A,) being marked so in the papers in Doctors Commons. And that he never did, until the pinch of the occasion called for it, mention, or intimate, or throw out the slightest suggestion to the attornies that there was another will, which would answer all their purposes, and relieve them from the difficulties in which they were, before this was produced. He, who had been before almost a stranger in Mr. Robinson's house, for he had no connection with him in business; he was no member of the legal profession, so as to be concerned in the making a will; not a man with whom Mr. Robinson had been in the habit of negociating any of his affairs; he, who had been a stranger in the house comparatively, became, in a few weeks after his death, nearly an inmate there; he was continually eating and drinking, and was received almost as one of the family, until at last he produced this paper,

which was brought forward upon the pinch of the cause; he had knowledge of all the affairs of the family; he had knowledge of the difficulties in which they were engaged; he could have produced this will, or given some information about it, if in reality it had previously existed; and it will be for you to gather whether the will was not forged, fabricated and uttered, for the purpose of relieving the mother-in-law of the deceased from the difficulty in which she was, and of gaining that point about which she was so anxious.

Gentlemen, it is also said to me, and you observe upon this occasion I have had no inspection of this paper, and it would be most unfit I should; but I am instructed to state (and you will be to judge of that) that this paper being set up by this deposition, as having been all made and done at one and the same time, by the prisoner, and by Mr. Thomas Robinson, there is every appearance of the words above written by the prisoner at the bar, avowedly having been written in one ink, and at one time, and the words below, "Thomas Robinson," having been written in a differently coloured ink; that will be matter for your observation, and I do not press it further, only that if it does appear so, it will be quite natural for you to observe, that when a man is writing merely for himself, he writes fearlessly, and at a time when it suits him to write, but when there is a necessity for premeditation and comparison of such writings as he can get, he takes a great deal more time to write that which he must write in imitation of another, than he would where it was casually done.

Gentlemen, this will being produced in Doctors Commons, the parties to the suit on the other side, the next of kin, made no further contest; the will was established, and the property went to the

mother-in-law, who is now, I understand, dead, having bequeathed her effects in a manner I do not know much about, and which it is not important to enquire into. It will naturally occur to you to ask, the whole of this having occurred in the year 1815, and the suit being determined early in 1816, how it comes, that not till the close of 1821, a jury is called upon to consider whether this will be a forgery or not? Gentlemen, the only answer I can give to that is this; the relations to the late Thomas Robinson are all in poor and humble situations in life. A decree to them is a final decree, when it can be wrestled with only by the production of money which they cannot produce; but you have heard it stated in this paper, that there was an uncle who had been guilty of some bad conduct in the neighbourhood about thirty years ago; that uncle was, by a sentence of some kind or other, sent out of this kingdom, and was in New South Wales; he came over on hearing of the death of his relation; he caused the enquiries to be made which have led to the discoveries I shall lay before you to day, and it is by his means, and under his directions, that the present indictment is prosecuted, hoping, though late, that justice will be done, and that it may have some beneficial result with respect to the interests of the family.

Gentlemen, it is a grave, and a solemn, and an important enquiry, in which you are engaged. I have endeavoured to open the case I shall submit to you in proof, in all brevity, and without any passion. I am sure that the justice you will do will result from a careful examination of the evidence; that no prejudice on the one side, arising from lapse of time, and no prejudice on the other side, arising from the considerableness of the property, or from any of those circumstances which

might create a bias on the one side or the other, will be suffered for a moment to operate in your minds, but that pure justice will be done by you, and pure justice is all I require at your hands.

EVIDENCE FOR THE PROSECUTION.

Mr. Samuel Luke, sworn.

Examined by Mr Brodrick.

Q. Have you any official situation at Doctors Commons.

A. I am a clerk in the Prerogative Office.

Q. Do you produce any proceedings in the cause of Robinson against Robinson and others?

A. Yes, several.

Q. Have you the Assignation book?

A. I have.

Q. Have you the original depositions?

A. I have.

Q. And the scripts as they are called, marked (A) and (B)?

A. I have.

Q. You produce all the proceedings I believe?

A. I do.

Mr. Brodrick. I will call another witness to explain the papers, my Lord.

Mr. William Tebbs, sworn.

Examined by Mr. Brodrick.

Q. Are you a proctor in Doctors Commons?

A. I am.

Q. Have the goodness to look at the proceedings in that cause of Robinson against Robinson and others—look at the Assignation book.

[*The Witness referred to the same.*]

A. I have inspected this Assignation book.

Q. When does it appear that the proceedings were commenced?

A. That really I cannot tell by this book, they may have been commenced in the preceding year; the only thing I know from this is an entry in this book, that I attended on a certain day, at the time that the proctor, Mr. N. Gostling, produced some witnesses.

Q. Do not you know by that book when the proceedings commenced?

A. If I was to go through the whole book that would appear; the proceedings according to this book must have commenced previous to this year.

Q. At what time were the proceedings going on according to this book?

A. In the year 1816 clearly, because the first order in this book stands on admission of Dyke's asserted allegation, from which it is observed there must have been proceedings previous to that.

Mr. Brodrick (to Mr. Luke.) Have you the commencement of the proceedings?

A. I do not know, I have brought all the papers that were ordered.

Q. What are those other proceedings you have there?

A. Depositions, and an allegation.

Mr. Brodrick (to Mr. Tebbs.) Mr. Gostling, the proctor, is dead?

A. The proctor that was concerned in the cause is dead; it was Mr. N. Gostling, junior.

Q. Does it appear by this paper when the proceeding commenced?

A. This allegation bears date in May, in the year of our Lord 1816.

Q. That was the allegation on which a will was founded?

A. I really do not know; I was not in the cause;

I know nothing of the proceeding; it was an allegation given in by Mr. Dyke.

Mr. Brodrick. I will call Mr. Dyke, my Lord.

Mr. Thomas Dyke, sworn.

Examined by Mr. Brodrick.

Q. Were you the proctor engaged for Eliza or Elizabeth Robinson in these proceedings?

A. I was.

Q. Can you tell us when the proceedings commenced?

Mr. Serjeant Hullock. Will not that appear by the Assignation book which precedes that in order?

A. Yes, it will.

Mr. Serjeant Hullock. I object to any statement but from the papers.

Mr. Adolphus. Any thing which enables the witness to identify the fact is, I apprehend, admissible.

Mr. Justice Bayley. It appears by these books?

A. Yes.

Mr. Serjeant Hullock. They have asked this gentleman whether the commencement of this proceeding will not appear from another book which precedes that in the course of time.

Mr. Justice Bayley. At present you have not got from him, that that is the only book by which it will appear in Doctors Commons; but he cannot prove it by parole.

Mr. Brodrick. Have you the allegation here?

A. I understand it is here.

Q. Look at that?

A. This is it.

Q. Was that an allegation in the course of the proceedings?

A. Yes.

Q. When does script (A) bear date?

A. In Hilary Term 1816; on the second session of Hilary Term 1816.

Mr. Serjeant Hullock. Is that the first proceeding?

A. No, certainly not.

Mr. Justice Bayley. What was done in Hilary Term 1816.

A. This allegation was brought in by me.

Mr. Serjeant Hullock. I object to this, my Lord; I submit that no proceeding in the cause can be produced until it is shewn that the cause is properly commenced; you cannot read proceedings in the court of Chancery, until it is shewn that the cause was properly pending in the court.

Mr. Brodrick. My Lord, this is totally unimportant; we want it here as the allegation of the prisoner.

Mr. Justice Bayley. It appears to me this is evidence, just the same as a declaration is evidence in a cause

Mr. Adolphus. It is evidence of the declaration it contains.

Mr. Baron Garrow. It may be received as evidence of its contents.

Mr. Brodrick (*to Mr. Luke.*) Just see whether you have the depositions which have reference to that allegation. Are those the depositions?

A. I cannot say whether they have reference to that allegation.

Q. Do you find there a deposition of Thomas Saxelbye?

A. Yes. (*producing it.*)

Mr. Brodrick. Will you look at that, Mr. Dyke?

Mr. Serjeant Hullock. Do you know any thing but from your professional capacity?

A. Certainly not.

Mr. Brodrick. The prisoner at the bar was not your client?

Mr. Justice Bayley. He can look at that and say whether it is the hand writing of Saxelbye.

A. Yes, I have it in my hand.

Mr. Brodrick. Turn to the end and see whether it purports to bear any signature?

A. Yes, it does.

Q. What signature does it bear?

A. It bears the signature of Thomas Saxelbye.

Q. Does it appear to have been sworn before any body?

A. No, it does not; it is a mere repetition.

Q. Whom does it appear to have been repeated before?

A. Doctor Richard Henry Cresswell. I beg your pardon, I am looking at the wrong—yes, I see it is the same surrogate.

Q. Does there appear the signature to that of any notary public?

A. Yes.

Q. Of whom?

A. Of George Silk.

Q. When does it appear to have been repeated?

A. On the 9th of May 1816.

Q. Look at the signature of Saxelbye; do you know whether that is the prisoner's hand-writing?

A. I never saw him write in my life.

Q. Did you attend before Doctor Cresswell?

A. No.

Q. Who were the attornies in the country with whom you were in correspondence?

A. Messrs. Galland and Wilson.

Q. Where did they live?

A. At Hull.

Q. Does it appear by the proceedings that are here now, whether there was any script propounded, marked (A)?

A. I am not aware, without looking over them, whether the script is in court or not.

Q. Does it appear by any proceedings that are here, whether there was any such script propounded?

A. I am not aware what are the papers which are here, without referring to them; yes, I see there is a script (A.) here.

Q. Is there a script (B)?

A. Yes.

Mr. Justice Bayley. I can only take that he produces a paper marked (A.)

Mr. Brodrick. And another marked (B)?

A. Yes.

Mr. Brodrick. These are produced from Doctors Commons, my Lord, perhaps your Lordship thinks we should not enquire about the proceedings, till we have proved their commencement?

Mr. Justice Bayley. At present we know nothing of a suit depending.

Mr. Brodrick. I will ask that by and by.

Mr. Serjeant Hullock. I shall have some questions to ask you by and by.

Mr. Brodrick. Were you in correspondence with Messrs. Galland and Wilson during the progress of any suit?

A. Yes.

Mr. Serjeant Hullock. That will appear by writing.

A. Yes, certainly.

Mr. Brodrick. Look at that letter; is it your hand-writing?

A. Yes.

Q. What date does it bear?

A. The 26th of August 1815.

Q. Who was the proctor in any suit which was depending, if we may talk about it; was there a proctor engaged for any adverse parties of the name of Gostling?

Mr. Justice Bayley. You had better examine to that, when you have proved the existence of the suit?

A. I can, by looking, see whether Mr. Gostling was the proctor at the commencement of the suit.

Mr. Brodrick. We will reserve that for the present.

Mr. William Tebbs called again;

Examined by Mr. Brodrick.

Q. Will you take that deposition signed by Thomas Saxelbye in your hand; it bears date the 9th of May 1816, and was repeated and acknowledged before Doctor Richard Henry Cresswell?

A. It bears date the 8th of May 1816, repeated the 9th of May 1816.

Q. Were you present at the time that deposition was repeated and acknowledged?

A. Certainly not.

Q. Do you know the hand-writing of Thomas Saxelbye?

A. I do not; I never saw him write.

Q. Were you present during the time that this deposition was taken?

A. No, certainly not; it was taken in private.

Q. Do you know the prisoner at the bar?

A. I do not; I can save the court trouble by saying I know nothing of the case, but having been present when the witnesses were produced, and took the oath in court. Mr. Gostling was

indisposed and could not attend the court, and I attended the court *pro formâ* for him.

Q. Do you know whether the prisoner was one of the witnesses produced, or not?

A. Certainly not; I cannot tell, except by the names.

Mr. George Silk sworn;

Examined by Mr. Brodrick.

Q. Will you take that deposition; you are a notary public?

A. Yes; I am one of the examiners of the court at Doctors Commons.

Q. Is that your signature, "George Silk," to the "repeated and acknowledged?"

A. Yes; and the whole of the deposition, except the name of the witness.

Q. From whom did you take it?

A. From Thomas Saxelbye, but of whom I have no recollection.

Q. Do you remember a person appearing, and giving that deposition as Thomas Saxelbye?

A. Not in the least; it is impossible that I can remember it; I have no remembrance of this being signed; but I saw it signed, of course.

Q. You saw that signed by some one; whether by the prisoner you do not know?

A. Just so.

Q. Where was it signed?

A. In my office, in Doctors Commons.

Q. Will you look at the script, marked (B)?

A. I have it.

Q. Do you know whether that was put into the hand of the person who signed the deposition?

A. I do not know that it was put into his hand; if you will give me leave, I will refer to the deposi-

tion which will refer to it in the answer to the 5th and 6th article; it is there stated.

Mr. Brodrick. I must not state that yet.

Mr. Justice Bayley. On referring to that, can you say whether it was produced to the person making that deposition?

A. Not in the least, my Lord.

Mr. Brodrick. Can you state by looking to that?

A. Yes; by reading it.

[*The witness read it.*]

A. That paper was certainly produced to the person making this deposition; I do not know that it was put into his hand, but it was produced to him to identify it.

Mr. Brodrick. I understand, my Lord, the other Allegation book is now here.

Mr. Serjeant Hullock. Do you examine Mr. Silk again?

Mr. Brodrick. I cannot say.

Mr. Serjeant Hullock. I will cross examine them all together, if you please.

Mr. Luke called again;

Examined by Mr. Brodrick.

Q. Is that before you the Allegation book of the year 1815?

A. Yes, I believe it is.

[*The witness referred to it.*]

A. Yes it is.

Mr. Thomas Dyke called again;

Examined by Mr. Brodrick.

Q. Have the goodness to look at that book, and tell me when the suit Robinson *v.* Robinson and others, was commenced?

A. I have the first entry in this book.

Q. When does that appear to have been made?

A. On the bye day after Trinity term in June 1815.

Mr. Justice Bayley. Was it commenced at that time?

A. Certainly not; that is not the first; that is the first entry in this book; the first assignation in this book, both proctors to exhibit proxies, &c.

Mr. Justice Bayley. Then by that book it appears that it was pending after that date?

A. Yes, this is the 21st of June 1815.

Mr. Brodrick. Would that be the first entry made relative to the suit in that book?

A. This is the first entry that would be made in this book, but not in the suit.

Q. Where would the first entry be made?

A. In what is called the Court Caveat book, there is another book, in which the caveat is entered, then there is a book called the Court Caveat book.

Q. Does it appear in that book what script was first propounded?

A. I do not know where to look for it;—if you can, give me any clue?

Q. You are the proctor in the cause?

A. I will look through the book if it is wished, but it will keep the court some time.

Q. Look at the fourth session, Trinity term 1815?

A. There is nothing upon this book in the fourth session Trinity term 1815, in that cause.

Q. Does that book enable you to tell me whether any paper, and what paper, was propounded for the purpose of being pronounced as the will?

A. I find script (A) was exhibited in this book.

Q. When was that exhibited?

A. On the caveat day after Trinity term, in September 1815.

Q. What day in September?

A. The 5th of September.

Q. Turn to the other book, and look at Hilary term 1816, I believe in January 1816, and see whether there is any script (B) propounded.

A. In what term is it?

Q. I understand in January; but you were the proctor in the cause, cannot you tell the date?

A. Not without referring to it. On the second session of Hilary term, on the 31st of January 1816, the script (B) was re-propounded by myself.

Q. Had it been propounded before?

A. It was propounded probably before.

Mr. Justice Bayley. Look and see when it was first propounded.

[*The witness referred to the book.*]

Mr. Brodrick. See whether it is not in October 1815?

A. I think I have got it now, the 3d of October 1815.

Mr. Justice Bayley. That is the time when it was first propounded, was it?

A. I will see, my Lord, the allegation is rather long.

[*The witness referred to it.*]

A. On the third session in Michaelmas term, the 22d of November 1815, it was propounded.

Q. I understood you to say it was on the 3d of October 1815?

A. I was referring to it, my Lord;—I see that is the date.

Mr. Brodrick. When you say that script (A) was propounded on the 5th of September, was that when it was first propounded?

A. Paper (A) was abandoned when paper (B) was produced, (B) being a paper supposed to be of a later date. (A) was propounded only once.

Q. Neither (A) nor (B) bear any date, do they?

A. I am sure I cannot say.

Q. You can refer to them?

A. (A) I know does not.

[*The witness referred to the papers.*]

A. No, there is no date to either of them.

Mr. Brodrick. That is all I ask at present, my Lord.

Mr. Serjeant Hullock. I do not feel it to be necessary to ask any question at present, my Lord.

Mr. Justice Bayley. Was there any thing done in the suit between the 5th of September, when (A) was propounded, and the 22d of November, when (B) was propounded?

A. The usual assignations of the court were produced, so that the cause was kept open as to paper (A) until (B) was produced.

Q. Was there any order, in the mean time, for dismissing the suit; or, for granting letters of administration, unless some further script was produced within a certain period of time?

A. None at all.

Mr. Adolphus. Before you answer that question look at that letter of your own?

A. I know the contents of this letter; there was no order made by the court; this was a mere notice, because the proctor might think we were about abandoning the suit altogether.

Mr. Justice Bayley. None but the usual allegations were made between the 5th of September and the 22d of November; there was no order from the court, that unless some further script was produced, they should pronounce against the paper (A)?

A. None, my Lord; if the paper (B) had been pronounced against, we should have proceeded

then upon the paper (A); paper (A) was not out of court.

Mr. Brodrick. I do not know whether your Lordship would think proper to ask him whether he had received any notice from the other side of an intention to move the court for judgment, unless they immediately produced some other paper.

Mr. Justice Bayley. Are the notices given in writing?

A. There was only an intimation from the proctors, which they are in the habit of giving, in case of their conceiving there is unnecessary delay; in fact, we were taking counsel's opinion; there was some apparent delay, but there was no unnecessary delay in my opinion respecting paper (A.)

Q. Did you receive any verbal notice from the proctor on the other side, in relation to paper (A)?

A. There are frequently those intimations from the proctors to each other.

Mr. Brodrick. Look at that letter of your own.

A. I received a notice, that unless we proceeded, they should move the court; it was dated the 23d of August.

Mr. Justice Bayley. What is that notice?

A. This is the notice; I do not know whether I should state it. "Doctors Commons, 23d of August 1815—Sir, Robinson against Robinson and others. The assignation on you to exhibit a proxy, and to bring in an affidavit, as to scripts, on oath of your party with the testamentary paper annexed, not having been complied with, you will be pleased to take notice, that I shall move the court to decree administration to my parties, unless the same are exhibited on the next court, the 5th of September. I am, Sir, your most humble servant, Nathaniel Gostling, junior."

Q. On the 5th of September, the paper (A) was exhibited?

A. Yes, on the 5th of September the paper (A) was exhibited.

Q. Had there been any unnecessary delay before that time?

A. Certainly none at all, there was a communication between Hull and London.

Mr. Brodrick. Did you make known this to your correspondents in the country?

A. Yes, I did; I merely apprised them that it might be done, but I had no serious apprehension of it; in all probability this originated from my own suggestion.

Mr. Justice Bayley. You very often wish that a suit should come to an end?

A. Certainly, my Lord.

John Kirkby Picard, Esq. sworn.

Examined by Mr. Brodrick.

Q. Are you acquainted with the prisoner at the bar?

A. Perfectly.

Q. Have the goodness to look at that deposition. Have you seen him write?

A. I have.

Q. Will you tell me whether that is his hand-writing?

A. I dare say it is.

Q. Have you any doubt of it?

A. I have not.

Q. He lived in your service several years?

A. Yes, he did.

Q. You believe that to be his hand-writing; we want only your belief?

A. I believe it to be his hand-writing.

Q. Look at that also; do you believe that to be his hand-writing?

A. I dare say it is.

Q. Do you believe it to be?

A. I do.

Cross-examined by Mr. Serjeant Hullock.

Q. You reside at Hull, I believe?

A. I do.

Q. The prisoner did reside at Hull down to the present time

A. Yes, he did.

Q. Did the other parties reside either at Hull or in the immediate vicinity of Hull?

A. I do not know any thing of the other parties.

Q. How long have you known Mr. Saxelbye?

A. Certainly since the year 1810, and further back than that; many years further back.

Q. Between that time and the present, have you had opportunities of knowing Mr. Saxelbye intimately?

A. Very much so.

Q. Has he been employed under you in confidential situations at different times?

A. Yes; he came into my service as the manager of white lead works (of which I am the owner) in the year 1810, and staid with me until 1816.

Q. Was he your principal manager of those works?

A. Yes, he was.

Q. In that situation were important interests confided to his care by you?

A. Very important, to a very large amount.

Q. During that time, and during the whole time you have had an opportunity of knowing

Mr. Saxelbye, in what manner has he demeaned himself, in your judgment?

A. Oh, exceedingly well in my employ; I should say he might have defrauded me of hundreds, or, I might say, of thousands; but I have no reason to believe that he ever defrauded me of one shilling; he had opportunities of doing it if he had been disposed.

Q. He had opportunities of doing it without your detecting him?

A. Yes, it is that kind of business.

Q. Have you every reason to believe that he demeaned himself honestly towards you?

A. With the greatest integrity, I am convinced.

Q. What is his general character?

A. I believe it is pretty good; but I have not known much of him since he left my service.

Q. You speak to his character during the time he remained with you?

A. Yes.

Re-examined by Mr. Brodrick.

Q. When was it he left your service?

A. I can shew by his book. I see he entered into my service in 1810, under an agreement for five years; and there was a continuance, it appears by this book, of which I have no doubt, so that he left me in or about the month of August 1816.

Q. Do you know where he went to then, and what he did?

A. I do not exactly know where he went to; he resided in the town as a sort of agent for pig lead and for other agency business.

Q. Was that on his own account?

A. Oh, yes.

Q. At that time, in August 1816, he commenced business for himself?

A. He might have done business for himself pre-

viously to that; so far as related to me he left my service in August 1816.

Q. Up to that time he was a servant?

A. Yes.

Q. At what salary?

A. 150*l.* a year, house rent, taxes and coals. I used to find him in coals.

Q. What family had he?

A. A wife and two children.

Q. Do you know whether he was in any other employment except as an agent for the sale of lead?

A. No, I do not; it occurs to me that he had some other business, but I do not know the fact.

Q. Do you know where he resided, so as to be able to tell whether there was any change in his mode of living?

A. Yes, I know where he resided; I cannot state it at this moment.

Q. Are you able to state whether there was any change in his mode of living?

A. There was no improvement I think; if there was any change I should think it was for the worse.

Q. How long did he remain in Hull, do you know?

A. After he left me? I expect he has lived there, with the exception of his being a short time abroad, up to the time of his surrender here.

Mr. Justice Bayley. He has been forthcoming at all times if any application had been made after him, with the exception of a short time of his being abroad?

A. Yes, my Lord, certainly.

Q. You have no reason to suppose, from a more expensive mode of living, that he had an extraordinary accession of wealth?

A. Not the least, my Lord.

Q. How long might he be abroad?

A. I do not recollect, my Lord; I should think two or three months.

Q. You do not recollect when that was?

A. No, my Lord, I do not.

Mr. Brodrick. My Lord, I propose now reading this deposition to the allegation, the signature to which has been proved.

The deposition to the third article of the allegation was read, as follows:

To the third article of the said allegation, this deponent says, "that he last saw the said Thomas Robinson, the party deceased, in the afternoon of Sunday, the 30th day of April of the year 1815, or last year; that after dinner, (as he usually did on Sundays) being about two or three o'clock, he called upon the said deceased, whom he then found in a parlour on the ground floor of the house of the said Eliza Robinson, apparently ill, in bodily health, and being then ill of the illness whereof he died; that when he first entered the said parlour, the said Eliza Robinson was sitting in company with him, and deponent having asked him general questions as to his health, which the said deceased answered, soon after, he went into the said parlour; the said Eliza Robinson left the same, and the said deceased and deponent were then alone together; and deponent seeing that he was poorly in his bodily health, and thinking it a pity any person having property of consequence to leave should die without a will, when they were left alone, as by him last deposed, addressed himself to the said deceased, and said he hoped that he had settled his affairs, or made his will, or to that effect; to which the said deceased replied, "I have not done it, but I will be obliged to you to do it for me," or to that effect; and then said something about his not liking attornies, where-

upon deponent told him he would get it done, and then immediately taking out of his pocket a piece of paper, being a piece of a letter, asked the said deceased how he would have it done, meaning how he would leave his property; and the said deceased then saying it, (meaning his said will,) would be done in a few minutes, then, by word of mouth, gave the deponent instructions for making his said will, and agreeably to what the said deceased so told him, deponent wrote on said piece of paper, and what he had so written, being very short, he the deponent read over audibly and distinctly to the said deceased; and he then asked him if he approved of it, meaning what he had so written; to which he the said deceased replying, yes, the deponent asked him, as he thinks, to sign it, and as he now best recollects, the said deceased having the said piece of paper in his hand, did himself also peruse what deponent had so written thereon; that he well remembers, after the same had been by the deponent read as aforesaid, and deceased had signified his approbation thereof as aforesaid, he the said deceased having a pen in his hand, subscribed his name thereto, and then gave it to deponent, and said it was right; that it was what he wished; and desired deponent would get his will drawn from it; and the deponent then received the said paper writing, with an intention of getting a more formal will drawn up; and having been with the said deceased on said occasion, about three quarters of an hour, he left him, and brought away with him said paper writing; and this deponent referring to what is by him pre-deposed, says, that he verily believes that the said deceased did certainly mean and intend to give, will, bequeath, dispose, and do in all things as in the said paper writing, being the paper writing marked (B.) remaining in the registry of this court, is contained; and this deponent judging from

the said deceased's general manner, conduct and conversation, verily believes, and has no doubt that he the said deceased was. during all and singular the premises by him last deposed of, of perfect sound mind, memory and understanding; that he talked and discoursed quite rationally and sensibly, and as he verily believes well knew and understood what he said and did, and what was said to him; and was fully capable of giving instructions for, and making and executing his last will and testament, or of doing any other serious or rational act of that or the like nature, requiring thought, judgment and reflection, and, referring to what will be by him hereafter deposed, further he cannot depose."

Mr. Brodrick. Will you turn to the fifth and sixth?

Mr. Serjeant Hullock. No, read the next, if you please.

The deposition to the fourth, fifth and sixth articles was read, as follows:

To the fourth article of the said allegation, this deponent refers to what is by him deposed on his examination on the next preceding article; and says, " that when he left the said deceased on said Sunday, the 30th day of April, in the year 1815, as by him pre-deposed, he, the deponent, did not consider or believe the said deceased to be in any immediate danger, and by reason thereof, and being much engaged on the next following day, or 1st day of May in the said year, or last year, he did not apply to any person as he had intended to do, to make a more formal will for the said deceased; and on the next following day, or 2d day of May aforesaid, he called at the said house of the said Eliza Robinson, where the said deceased lived as by him pre-deposed, and being in the morning, he enquired after the said deceased, and being then told

that he was insane, or not himself, he the deponent, for such reason, and for that reason only, did not apply, and thought it was of no use to apply, to any person to make such will for the said deceased, who, as he concluded, could do nothing; and the deponent never afterwards saw the said Thomas Robinson, the said deceased, and further he cannot depose."

To the 5th and 6th articles of the said allegation, and the paper writing therein pleaded and propounded as and for the true and original last will and testament of the said Thomas Robinson, the party in this cause deceased, being in the words following; "The whole of my property I wish to give my mother-in-law if she survives me, my uncle having bad conduct. I hope she will be good to him when she finds it necessary;" and thus subscribed, "Tho. Robinson," now produced to, and carefully viewed by, the witness, this deponent says, he refers to what is by him pre-deposed; and says, that he knows that the name, Thomas Robinson, appearing subscribed to the said will, was and is of the proper hand-writing of the said deceased, who did, as by him pre-deposed, write and subscribe the same as now appears thereon, in the presence of this deponent. And this deponent further says, that the said will of the said deceased, marked with the letter (B.) remained in the custody and possession of this deponent, from the time of said deceased signing the same as aforesaid, and his then receiving it, until one day, happening about two or three months after said circumstance, but particularly as to time he cannot depose, when he delivered the same to the said Eliza Robinson; and having perused the same as aforesaid, he says, that the same appears to him to be, and is, as he verily believes, in the same plight and condition in every respect as when

he read the same over to, and the same was signed by, the said deceased as aforesaid; and further he cannot depose."

Mr. Parke. We wish to have the second read.

The deposition to the second article was read, as follows:

"To the second article of said allegation, this deponent says, that he well knew the articulate, James Robinson, father of the said Thomas Robinson, the said deceased, and first came to know him about twenty years ago, at which time he was married to Eliza Robinson, his now widow, and party in this cause; and deponent going to and visiting the said parties for a long time, considered that the said James Robinson, and his said wife, were respectively the natural and lawful father and mother of the said deceased, and so continued to believe until he was given to understand that said deceased was the only child of said James Robinson by a former wife, who died about a year after her marriage, and of whom deponent had no knowledge; that at the period of deponent's first acquaintance with said persons, he the deponent lived at Derby, from whence he was in the habit of going to Kingston-upon-Hull once or twice or three times a year; and by means of a mutual friend, came to know the said parties, whom he used then to visit, until he went to reside at Kingston-upon-Hull, which he did about six years ago; and continuing to reside at said place ever since, he frequently called upon, and saw, and was in company with, the said deceased, till the thirtieth day of the month of April of last year, next preceding the eighth day of the said following month of May, on which he died; and he is enabled from thence to depose, that the said deceased, from his first knowledge of him when

he was a boy, always, save when at school, resided, and continued to reside, with his said father, the said James Robinson and his wife said Eliza Robinson, until the death of his said father, which happened about seven years ago; and the said Eliza Robinson, who had not any child to his knowledge, always from what he observed, treated the said deceased, and behaved to him with the greatest maternal care and tenderness, so much so, that he did not know but that he was her own child; and he the said deceased always appeared to entertain, and did as he verily believes entertain, a very great regard and affection for the said Eliza Robinson, towards whom he always appeared to deponent to conduct himself as if she had been his own mother; and this deponent further says, that the said deceased succeeded to the property of his father on his death, save as to an annuity to said Eliza Robinson, and a small annuity left to his uncle; and on his said father's death he left Mrs. Robinson's residence to go to live at Shields or Sunderland, as he declared to him to set up in the coal trade; but after having been absent a few months, he changed such his intention, and came back to Kingston-upon-Hull, where he returned to, and continued to reside with, the said Eliza Robinson till his death; during which he the said deceased did, two or three times in the deponent's hearing, declare, that he should leave the said Eliza Robinson all the property he was possessed of, or to that effect; and the deponent remembers on one occasion when he was in company with the said deceased, at the house of the said Eliza Robinson, the transaction of the dispute of a will was spoken of, which induced the deponent, addressing himself to the said deceased, to say, "I hope Mr. Robinson you have made your will;" to which the said deceased replied and said, "No,

I have not; mine is made in a few minutes, I shall leave my mother-in-law the principal part of what I have," or to that effect; and deponent, from what he said on said occasion, understood that the said deceased had no one else to leave his property to; and on all occasions that he was present, at or in hearing of the said deceased, spoke of and to the said Eliza Robinson till his death, in terms of the greatest regard and affection; and further he cannot depose."

Mr. Brodrick. Now, will you give me that paper script, marked (B.); we propose to read that.

Mr. Serjeant Hullock (to Mr. Silk.) Is that the paper to which Mr. Saxelbye referred at the time he made his deposition? *(It was handed to Mr. Silk.)*

A. I have compared the recital of that paper in the deposition, and it appears to be the same.

Q. Have you any recollection of the paper?

A. Not the least.

Q. Therefore, any other paper, which contained the same in substance, would apply to the deposition as well as that; have you any recollection of the paper itself?

A. Not at all; we are not in the habit of marking the papers produced to the witnesses.

Q. Is there any mark upon that paper which enables you to say it is the same?

A. No, there is no mark except the letter, and that is not made by me.

Q. There is no mark upon that paper made by yourself?

A. No.

Q. Therefore, when you say that that paper was put into the hands, or shewn to the individual by whom that affidavit or deposition was made before

you, you are enabled to say so from seeing a paper corresponding in its contents with that recited by you in that document?

A. Exactly so.

Q. And that is the only cause?

A. Exactly so.

Q. If any other paper, of the same date and the same contents, had been produced to you to-day, and you had found it to correspond with the contents of that deposition, would you have given the same testimony as you have done now?

A. Will you allow me to look at the paper again? I observe there are some formal words, what we call an act of court, on granting administration, which would be another reason why I should conclude that this was a paper coming from the Prerogative office.

Mr. Serjeant Hullock. So should I; that is proved.

Mr. Silk. Here is another paper, also coming from that office.

Q. In whose hand-writing is that which appears written on the back?

A. I do not know.

Q. But you judge, from the contents of that written on the back, that that was a paper coming from the Prerogative office?

A. Yes.

Q. Should there be any paper with a similar writing upon it.—

A. And the appearance of this?

Q. Any paper with that appearance and with that indorsement upon it, you would equally conclude was that referred to by the witness in giving his deposition?

A. Exactly so.

Mr Justice Bayley. Do you remember by whom

that paper was produced at the time that the prisoner was examined.

A. It was produced by myself to the witness; I received it from the Prerogative office?

Q. You received what you produced from the Prerogative office?

A. Yes.

Q. Did you return to the Prerogative office that which you received?

A. Certainly; a receipt was given for the paper, and it was returned when the paper was returned to that office.

Q. Are you sure that you returned the paper you received?

A. Yes, quite certain.

Mr. Brodrick. I will call Mr. Dyke, if you urge the objection, that there is any doubt about it.

Mr. Serjeant Hullock. Oh certainly.

Mr Broderick. I thought his lordship's examination might have cleared that up.

Mr. Serjeant Hullock. It strikes me quite differently.

Mr Brodrick (to Mr. Dyke.) Is that the paper that was propounded as the will?

A. Certainly, I presume it is.

Q. Have you the slightest doubt about it?

A. No, I have no reason to doubt it.

Mr. Justice Bayley. You have no doubt it was the paper?

A. From the circumstance of the indorsement, and the contents of it; it never was in my possession.

Q. The indorsement would be made at a subsequent period?

A. Certainly.

Q. You deposited it yourself in the court?

A. I brought the paper in annexed to the affidavit as to the scripts.

Q. Where did you get it from?

A. From Hull.

Q. From whom there?

A. From Galland and Wilson.

Q. From Galland and Wilson, the attornies there?

A. Yes; I received it on the very morning of the court I think, or on the morning before; the letter, sending it to me, is dated the 30th of November; it was brought in on the 3d of October.

Q. Are you certain of that?

A. Yes; I think it so appears from the Assignation book.

Q. You stated that first, and then corrected it I understood?

A. That was the propounding; it was brought in on the 3d of October; the proctor on the other side was then called upon to state whether he opposed that as the will of the deceased, which he did not do till some days afterwards. I see by reference to the book, that I am quite correct in that; it was the 3d of October.

Mr. Brodrick. Have you the slightest doubt that that paper put into your hand and propounded as the will, is the one referred to in the deposition of Saxelbye?

A. I presume it is; I have not any doubt of it; but I never saw it after it was brought in, till lately.

Q. Have the goodness to turn to the book, and tell me when the script marked (A.) was brought in; you have only told me when it was propounded?

A. On the 5th of September 1815.

Q. That is when it was propounded?

A. Yes; it was propounded on the same day.

Q. Does that appear by the book?

A. Yes, it appears that paper (A.) was never propounded; I was only assigned to propound it; but when paper (B.) was produced, there was no further occasion to propound paper (A.)

Mr. Justice Bayley. The course of proceeding is this; you bring in a paper, and if it is opposed you propound it?

A. Yes; the court gave me time to consider whether I would propound it; and in the mean time paper (B.) was produced, and there was no further occasion to propound that.

Mr. Brodrick. Will you see whether you are perfectly accurate; what was done on the 5th of September with that paper?

A. I have the book before me.

Q. What does it appear was done with paper (A.) on that day?

A. "N. Gosling, junior, declared that he opposed the pretended will or testament, or testamentary schedule of the deceased; and Dyke is assigned to declare whether he will propound the same on the caveat day in October."

Q. There is notice of the party that he means to oppose that being propounded?

A. Yes.

Q. Does it appear from that entry when (A.) was brought in? was not it brought in before that time?

A. No; that was the day it was brought in.

Q. How would the other party know any thing about the paper, unless it was brought in?

A. Because, in all probability, I had given them a copy of it before that time; in courtesy we do that.

Mr. Serjeant Hullock. I hope, my Lord, I have not lost the opportunity of objecting. I submit that they cannot give any of the proceedings in this

cause in evidence, until they have shewn the actual commencement of the suit.

Mr. Justice Bayley. I will see how that is in a minute. I will ask this gentleman, what the mode of commencing a suit is. What is the mode of commencing a suit with reference to a testamentary paper?

A. There are two modes; the one by a caveat entered by parties having interest against any will being proved in the common form, without the knowledge of the proctor concerned for those parties.

Q. What is the other mode?

A. By a decree, calling on the parties to bring in a testamentary paper, if they have any, and to propound it, if they think proper.

Q. The caveat is entered in a particular book?

A. Yes, in a particular book.

Q. That caveat book I suppose is kept at Doctors Commons?

A. Yes, it is.

Q. You have none of the books here at present that show the caveat, or the manner of commencing this suit?

A. I believe not, my Lord.

Q. After the caveat, what is the next step?

A. The caveat then is entered in a book that is kept in the Prerogative office, to which the clerks of the seat who fill up the caveats refer before they fill them up, and finding a caveat entered, of course it is stopped.

Q. They give notice to the parties whose names are entered there?

A. Yes; and then they are warned.

Q. That is, notice is given to the other proctor?

A. Finding a caveat entered against the proving of this will, I give notice to the proctor who has entered the caveat, to appear and shew cause why,

the probate should not pass; he then sets forth the interest on which he opposes it.

Q. Are any of those entries here?

A. I believe not.

Q. The entries which have been read are all in a subsequent part of the suit?

A. Yes; they are proceedings in the suit after it has been commenced.

Mr. Justice Bayley. The caveat book can be easily got, I suppose.

Mr. Brodrick. Yes, my Lord, we have sent for it. But is not the entering of the caveat merely preliminary to the suit; it does not follow that there should be a suit because there is a caveat entered?

A. Certainly not; it is frequently entered for the sake of the parties interested knowing when the will is proved; but then of course it is withdrawn as soon as the will is produced?

Mr. Justice Bayley. If the caveat continues, then a suit begins?

A. Yes.

Mr. Brodrick. A suit begins if the caveat is not withdrawn?

A. Yes.

Mr. Justice Bayley. But you have not in any of your books the next step which follows on the caveat being continued?

Mr. Brodrick. I believe we have, my Lord.

A. No you have not.

Q. What is the next book?

A. The court caveat book.

Mr. Justice Bayley. If I understand you right, the caveat is the commencement of the suit, unless it is withdrawn when the document is brought in?

A. I should say rather, that the second stage is

the commencement of the suit, the warning to the opposite party.

Q. In what book is that warning entered?

A. The entry of the caveat is in the court caveat book; the warning is merely by myself, for instance, to the proctor on the other side.

Q. Then there is an entry in another book of the continuance of the caveat?

A. Yes; that is in the court caveat book.

Mr. Brodrick. Does not your Lordship think, that inasmuch as the deposition of the prisoner had express reference to a paper, and this it appears is the one to which that deposition refers; and by that deposition it is proposed by him as the will, that is sufficient?

Mr. Justice Bayley. Are not you going to get the book?

Mr. Brodrick. Yes, my Lord.

Mr Justice Bayley. You may read this in the mean time.

Mr. Baron Garrow. Those documents ought to have been in a greater state of readiness; they would have been had for applying for.

Mr. Brodrick. There was no want of applying for them, I assure your Lordship; the proctor on the one side is dead, by which we have been left in some degree of uncertainty as to the precise papers required. Your Lordship thinks that paper may be read?

Mr. Justice Bayley. Yes, I think so.

Mr. Serjeant Hullock. I wish to ask Mr. Dyke a question first. You say you received the paper marked (B.) from the country?

A. Yes.

Q. From your clients, Galland and Wilson, at Hull?

A. Yes.

Q. They were employed in the country by the individual who sued out administration, Mrs. Eliza Robinson?

A. Yes.

Q. You were the proctor on her behalf?

A. Yes.

Q. They desired you to lodge that in the proper office?

A. Yes.

Q. How long had you it in your possession before you handed it over to some officer?

A. On referring to my letters, I observe that the letter inclosing it to me is dated the 30th of November 1815.

Mr. Justice Bayley. I dare say you mean the 30th of September?

A. No, the 30th of November.

Q. You stated that you brought it in on the 3d of October?

A. Not paper (B.) my Lord.

Q. You said so, certainly; probably it was a mistake. When did you receive the paper (B.)?

A. I suppose I received paper (B.) about the 2d of December.

Q. At present we have got it that you brought in that on the 3d of October?

A. On the 3d of October paper (B.) was produced.

Mr. Serjeant Hullock. When did you receive that?

A. The letter is dated the 28th of September 1815,

Q. Is that the letter which covered paper (B.)?

A. Yes.

Q. It is a two days post, I suppose?

A. Yes.

Q. You had of course never seen that document before?

A. No, certainly not.

Q. When did you deposit it in the proper office?

A. On the 3d of October.

Q. Did you ever see it again, or a paper with similar contents?

A. Yes; I dare say several times, I had occasion to refer to it.

Q. You have been asked whether you have any doubt of that being the paper referred to in that deposition; on what do you found your supposition that it is the same paper?

A. More particularly from the act written on the back of it.

Q. Is there any mark or memorandum upon that paper which enables you to identify that as the paper you received from Galland and Wilson?

A. Certainly no mark of my own.

Q. When you lodged that, that memorandum on the back was not put of course?

A. That was not put until after the judge had decreed probate of it.

Q. You have no means, from any mark of your own, or from any fact within your own knowledge, of saying that that was the paper?

A. Certainly not.

Q. In whose office was it filed or lodged by you?

A. It is brought into court; the registrar takes possession of it.

Q. You deliver it to some individual?

A. We generally lay it before the registrar.

Q. Who would be the person to whom you would deliver it?

A. I can tell that by referring to my book.

Mr. Justice Bayley. You delivered it personally?

A. Yes, I did; I can tell who the registrar is; it is brought into court and produced before him.

Mr. Serjeant Hullock. Is the registrar himself there, or a clerk?

A. There is always one of the registrars of the court there; Mr. Cresswell was one of the registrars; one of the deputy registrars.

Mr. Justice Bayley. What is his christian name?

A. Richard Cheslin Cresswell.

Mr. Serjeant Hullock. He was the registrar at that time in attendance?

A. He was the registrar on that day.

Mr. Adolphus. And he I believe is dead?

A. No, he is not.

Mr. Serjeant Hullock. Perhaps it will save time if I examine now, as to the termination of the suit?

Mr. Justice Bayley. Yes; it was opened that the suit was put an end to by their abandoning all further opposition.

A. It was not so.

Mr. Serjeant Hullock. That is not correct you say; were not the witnesses who produced that, cross examined by the opposite party?

A. Yes.

Q. Where were those examinations made, in London or the country?

A. In London.

Mr. Brodrick. The caveat book is come now.

Mr. Serjeant Hullock. There were cross examinations of the different witnesses by the other side?

A. Certainly, I believe of every one of them.

Q. Are the instructions received from the country for the purpose of cross examining witnesses?

A. I do not know how Mr. N. Gostling may have received his instructions, but the cross examination is made by written interrogatories, delivered to the examiner, whom I employed to examine the witnesses in chief.

Q. Those cross interrogatories were furnished to you or to the examiner by Mr. Gostling, the opposite proctor?

A. By Mr. Gostling to the examiner. I do not know what the interrogatories are until publication; no parties know the nature of the interrogatories, but the examiner and the witnesses, until publication; then we are permitted to see them.

Q. The witnesses would be in London, of course?

A. They were in London, for I produced the witnesses.

Q. You would not be present at the cross examination?

A. No, certainly not, nor any part of the examination; they are produced in open court, and the oath administered to them by the judge, and then the proctor, who produces those witnesses, hands them over to the examiner, and a time is appointed for their examination.

Q. Does it appear whether any witnesses were produced on the other side?

A. There were no witnesses produced on the other side; they cross examined our witnesses.

Q. There was ample time allowed for the purpose of bringing witnesses if the parties had thought right to do so?

A. Most assuredly there was in this case.

Q. Did they apply for further time?

Mr. Adolphus. That will appear by some document.

Mr. Serjeant Hullock. Does it appear by any document that further time was allowed to either party to bring witnesses?

A. Yes.

Q. I suppose the usual interval?

A. I will explain the progress of the case; when I have produced all my witnesses, I then pray

publication, and then, before publication is decreed the adverse proctor is assigned to declare whether he will give an allegation or not, and he has regularly two court days, and sometimes three, if he applies for it; and I find by my minutes, that such an assignation certainly did pass on Mr. Gostling; that he was assigned to declare whether he would give an allegation or not.

Q. What interval occurred before he declared whether he would give that or not?

A. I prayed publication on the second session of Easter term 1816, the 8th of May; and on Saturday, the 1st of June, N. Gostling declared he gave no allegation, unless exceptive to the testimony of witnesses; that is a further proceeding.

Q. After taking time from the 8th of May to the 1st of June, he made that declaration?

A. Yes.

Q. Then the court proceeded to a decree on the evidence as it then stood?

A. No, then the cause stood on the exceptive allegations; we have then the opportunity of seeing the evidence, and if the witnesses are exceptionable, or speak to irrelevant matters, then is the time for the opposite proctor to except to the evidence of those witnesses. On the 26th of June, another proctor for Mr. Gostling, junior, who was, I suppose, then unwell, declared that he gave no exceptive allegations; the Judge then declared the cause for sentence.

Q. A great many witnesses were examined in support of the document?

A. I think five or six; five, I think, were produced.

Q. Were Jane Hewson and Ann Stephenson two of those witnesses?

A. They were.

Mr. Justice Bayley. They were examined in support of the paper (B.)?

A. Yes, they were, my Lord; it appears by the depositions when they were examined, but not when they were produced.

Mr. Serjeant Hullock. It appears by the deposition, that two witnesses, of the names of Jane Hewson and Ann Stephenson, were examined?

A. Yes, Jane Hewson was examined on the 9th of May 1816, and Ann Stephenson was another.

Q. Do you know whether they are now living?

A. No, I do not.

Q. They were brought to London to be examined?

A. Yes.

Q. Galland and Wilson were your attornies in Hull?

A. Yes.

Q. Who was the opposite attorney in Hull?

A. I believe Mr. Martin; I saw him once.

Q. Is he the Attorney now?

A. I do not know; I remember meeting him but once.

Q. You have had no intercourse with the attorney in this prosecution, so as to know who he is?

A. No, I do not know him.

Mr. Brodrick. Was this a proceeding, as it is termed, by ways and means, *viis et modis?*

A. No, that is an incidental proceeding.

Q. Was there, incidentally, in this cause, such a decree?

A. Yes.

Q. What was that?

A. A decree taken out against a man that was abroad, citing him to attend and see proceedings; the object of that was, in the event of our succeeding

in the suit, and having a decree of court for the validity of this paper, that this party abroad should be precluded from coming forward, and obliging us to prove the will over again.

Q. If that party does not appear, you proceed by what you call, *in pœnam?*

A. We do certainly.

Q. And that was the nature of the proceeding here?

A. That was the nature of the proceeding in Doctors Commons.

Q. When was this decree, that you were to proceed by ways and means, that you say is incidental to the suit?

A. That will explain why the paper (B.) was re-propounded, understanding that there was——

Mr. Justice Bayley. This is very irregular; there is an examination, and cross examination, and re-examination, and examination, to all the matters again.

Mr. Brodrick. It is rendered necessary, my Lord.

Mr. Justice Bayley. It does not arise out of Mr. Serjeant Hullock's cross examination.

Mr. Brodrick. I am about to shew, that the party interested had not an opportunity of opposing.

Mr. Justice Bayley. Oh! I see your object.

Mr. Curwood. Then that being done, it will be necessary for us to shew, that that party did come in and take a part.

Mr. Baron Garrow. It will never be too late to give in evidence an important fact; it is only the mode of doing it.

Mr. Brodrick. What was the date of that decree; the proceeding by ways and means?

A. If you will refer me to it, I will state; but I have not the date of it.

Q. It is in court, I understand: have not you it, Mr. Luke, now?

Mr. Luke. No, it does not appear to be in court.

Q. Look at the books you have; does not it appear on the Assignation book when the decree was made?

Mr. Dyke. When that decree was ordered, and also when it was returned?

Mr. Brodrick. That is all I want to know.

A. On the 8th of December 1815.

Q. I understand you that the termination of the suit was June the 26th, 1816.

Mr. Justice Bayley. You may take it so.

A. On the 10th of July 1816.

Mr. Brodrick. That was an interval of about six months only?

A. Yes.

Q. Whether the party appears within that time, at whatever distance he may be from England, the suit terminates at that time?

A. Yes.

Q. I think you say it was at the end of September you first received the script directed (B.) from the country?

A. I referred to my letters for the date.

Q. Is there any thing from which it appears, when you first of all received from the country the script marked (A.)?

Mr. Justice Bayley. You have your letter probably?

A. I will refer to the date when I brought it in, and my letter will be probably just before that time.

[*The witness referred to his papers.*]

A. A letter dated the 2d day of September, first inclosed me that paper.

Q. The paper marked (A.)?

A. I have not the mark of it; but I have no doubt that was the paper.

Q. Did you ever receive any other paper of the same contents as that script marked (B.) except that one?

A. Not that I am aware of.

Q. You know wkether you did or not?

A. I believe I did not; I received no other that I am aware of.

Q. Have you any doubt about that?

A. I have no reason to doubt that that is so.

Q. Does it appear that that was the one propounded as the will?

A. I presume it was, by the act upon it.

Q. Have you any doubt upon it?

A. No, none at all.

Q. Have you now any doubt, that the allegations and the depositions have reference to that paper?

A. No.

Q. Where would that paper, after being handed over to the registrar, be deposited?

A. With the clerk of the papers in the Prerogative office.

Mr. Justice Bayley. Would it be deposited with him before probate or after?

A. Before probate; after that with the clerk of the papers.

Q. The registrar receives it from you, and he would hand it over to the clerk of the papers?

A. Yes; when I say the registrar, I mean one of the registrar's clerks.

Mr. Brodrick. What would become of it after probate granted?

A. It would go into the Record office, into the possession of Mr. Ellis; that is in the Prerogative office.

Mr. Brodrick (To Mr. Luke). Do you produce that from the Record office?

A. I do.

Mr. Serjeant Hullock. Will you proceed in what you were stating, about an interval given for some gentleman to come from some country?

A. I believe he did not come home till several years afterwards.

Mr. Brodrick. Are there any proceedings here relative to any step taken by any body?

A. You mean in Doctors Commons; there were in about a year.

Q. Are they here?

A. No, I believe not.

Mr. Justice Bayley. You can easily send for them.

Mr. Adolphus. Then now, my Lord, we propose reading this paper.

Mr. Serjeant Hullock. Put in the Caveat book first.

Mr. Adolphus. Certainly; who produces that?

Mr. Luke. I produce it.

Mr. Curwood. Is that the Court Caveat book?

A. No, it is not.

Mr. Adolphus. Oh, stop, let us do things by degrees. *(To Mr. Dyke.)* Do you find in the Court Caveat book an entry of a caveat in this case?

A. Yes.

Q. When was it entered?

A. On the 18th of May 1815.

Mr. Justice Bayley. Is that in the Court Caveat book?

A. No, that is the Caveat book.

Q. Have you got the Court Caveat book?

A. Yes.

Q. When was any thing done in that?

A. This intimates that I appeared for Eliza Robinson, widow, and prayed letters of administration, with a testamentary paper, on the fourth session of Trinity term, the 14th of June 1815.

Mr. Justice Bayley. Administration with the will annexed?

A. Yes, my Lord.

Mr. Adolphus. Which was the will annexed, for which you then prayed letters of administration?

A. That marked (A.); it was not marked (A.) at that time.

Mr. Justice Bayley. Had not you that in your possession at that time?

A. I do not know, indeed.

Q. You stated that you received it in September?

A. I may have seen it previously, but that was the date at which it was returned to me, with the affidavits.

Mr. Adolphus. When you went to the office, and claimed administration of that paper, had you that paper in your possession?

A. Oh, yes, most probably; but I may have had instructions from the country to apply for administration upon it.

Mr. Justice Bayley. Can you, by reference to your paper, state whether you had it in your possession or not?

A. I do not perceive, by any thing I have here.

Q. You cannot be sure whether you had it in your possession at that time, or not?

A. No, I think it probable I had.

Q. We cannot act on probabilities here.

A. I cannot state how the fact was, whether I had or not.

Mr. Adolphus. We propose now to read that paper (B.)

Mr. Justice Bayley. I have great doubt about that paper, but I think I ought to let you read it, reserving it for the consideration of the Judges; if you prove it to be in the hand-writing of Saxelbye, there will be no doubt upon it.

Mr. Adolphus. We are going to prove that, my Lord. *(To Mr. Picard.)* Will you look at the upper part of that, and state whether that is in the hand-writing of Mr. Saxelbye?

A. Yes, I have no doubt it is.

Q. All the upper part of that paper; all with the exception of the signature?

A. Yes.

Mr. Justice Bayley. The whole of the contents of that paper, with the exception of the signature, Thomas Robinson, you believe to be the hand-writing of the prisoner?

A. Yes, certainly.

Mr. Justice Bayley. Now you may read it; you had better look at the record.

[*It was handed to Mr. Tindal.*]

Mr. Adolphus. The second count, the uttering.

The paper was read, as follows:

The whole of my
Property I wish to give
my Mother in Law
If she survives me
My Uncle haveing bad
conduct I hope she
will be good to him
when she finds it
necessary

Thos Robinson.

Mr. Serjeant Hullock. I submit to your Lordship, there is no evidence of the uttering.

Mr. Justice Bayley. That had occurred to me.

Mr. Serjeant Hullock. Your Lordship is aware of the facts.

Mr. Baron Garrow. My learned brother has consulted me upon the subject; I think it is certainly evidence to go to the jury, of an uttering by him here; I take the fact to be for the purpose of argument, that the law agent in the country transmits the paper (B.) by the post, or by some private conveyance, to the proctor at Doctors Commons, and that then your proctor propounds that to the person charged with having uttered it; I do not mean in the technical sense of the word propound, but it is produced to him as a matter on which he may give important evidence. He has two courses, either to say I have no evidence to give upon the subject, or I know nothing of it at all, or to put it forward as an instrument which is to be in future adopted as the will on which probate is to be granted; it appears to me that it is evidence to go to the jury, that the person who makes that the subject-matter of his deposition, has uttered it; he may well be said at that time, and in that place, to have uttered that paper; that is the impression I have upon it.

Mr. Serjeant Hullock. If your Lordship is aware of the facts, I will not discuss it now.

Mr. Justice Bayley. Our attention was directed to that point, certainly.

Mary Bailey sworn;

Examined by Mr. Adolphus.

Q. Were you servant to the late Mrs. Robinson, at Hull?

A. Yes.

Q. How long did you live with her?

A. Five years.

Q. From when to when?

A. From 1814.

Q. To 1819 then?

A. Yes.

Q. Do you remember her son-in-law, Mr. Thomas Robinson?

A. Yes.

Q. Did he live and die in the house with her?

A. Yes.

Q. Did they live affectionately together, or otherwise?

A. No, they did not live affectionately.

Q. I mean as to the whole of the time of your observation between them?

A. I never saw any difference; I never saw love at all between them.

Q. At all times, while you were there, do you mean that that was the state of things?

A. Yes, at all times.

Q. Did you know, at all, the prisoner at the bar, Mr. Saxelbye?

A. Yes, I knew him perfectly well afterwards.

Q. Did you say perfectly well, or afterwards?

A. I knew him perfectly well after Mr. Robinson's death.

Q. Were you the only servant in the house, or were there more?

A. There was no more than me.

Q. Did you attend the door and wait at table, and do every thing that a servant does?

A. Yes, every thing that there was to do.

Q. How long after you had been there did Mr. Robinson die?

A. Between six and seven months, as nearly as I can tell you.

Q. In all that time did you see Mr. Saxelbye at the house at all?

A. I recollected Mr. Saxelbye once.

Q. Do you recollect what day that was?

A. No, I do not.

Q. I do not mean the day of the month, but whether it was a Sunday or a week day?

A. I cannot say.

Q. Do you know for what he came then?

A. No; I believe he came to bring Mr. Robinson—

Mr. Serjeant Hullock. If you do not know you cannot tell us.

Mr. Adolphus. Do you know whether he brought any thing with him?

A. I cannot say.

Q. Were you at home on Sundays, or did you go out?

A. Sometimes after tea it was regular that I went out.

Q. How often?

A. Sometimes every Sunday, and sometimes once a fortnight.

Q. Whilst you were there, and had an opportunity of observing, was it usual for Mr. Saxelbye to come and see Mr. Robinson every Sunday?

A. No, it was not.

Q. Do you remember when Mr. Robinson was taken ill?

A. He was taken ill of his death from the 1st of May.

Q. What day of the week was that?

A. On the Monday.

Q. Do you remember the day before that, the Sunday?

A. Yes.

Q. Who was with him that day?

A. Mr. Lockwood was with him most of the day.

Q. At what time did Mr. Lockwood come?

A. In the morning, I believe, he was there at ten, or a very little after, and continued until one.

Q. What did he do then?

A. In the afternoon he came by a little after two, and continued until six.

Q. In that morning did any persons come to Mrs. Robinson?

A. There was Mrs. Baron and Mr. Baron called between twelve and one o'clock.

Q. How long did they stay?

A. Perhaps they might stop half an hour.

Q. What time did they dine on that Sunday?

A. At half after one.

Q. Who sat down at the table?

A. Mr. Robinson and Mrs. Robinson, and Miss Hewson and Elizabeth Phillipson.

Q. Do you know Miss Hewson's christian name?

A. Ann.

Q. Had they done dinner, or were they still at dinner when Mr. Lockwood returned?

A. The dinner was off.

Q. What was on the table then, if there was any thing?

A. Perhaps there might be some wine.

Q. Do you remember whether there was or not?

A. I believe there was.

Q. Did the ladies go away, or how?

A. Miss Hewson went away, and Mrs. Phillipson stopped.

Q. Did they continue in the same room together, or did the ladies go into another room, or how?

A. They were altogether.

Q. Did they take tea?

A. Yes.

Q. At what time?

A. About six I believe it was.

Q. Had Mrs. Robinson and that company ever separated for any time from the beginning of dinner till they took tea?

A. No; I believe never; I never saw Mrs. Robinson go out of the room for any thing.

Q. Did Mr. Saxelbye come into the house at all during that time?

A. No, I am sure he never did?

Q. Was Mr. Robinson ill on that day?

A. Not particularly ill.

Q. Did he make any complaint of illness?

A. No, nothing but the coldness of the day.

Mr. Justice Bayley. Did you say that he made no complaint, or no complaint in particular?

A. No complaint in particular.

Mr. Justice Bayley. You see, your not speaking out loud leads us to doubt as to very important words.

Mr. Adolphus. I think you say that he complained of something?

A. The coldness of the day.

Q. Do you recollect any body calling the next day?

A. Mr. Martin called the next day.

Q. What is Mr. Martin?

A. To witness a deed.

Q. What is he?

A. He is an attorney.

Q. He called the next day, the Monday?

A. Yes.

Q. Was his clerk with him?

A. He was; he was not with him when he called at first.

Q. Were the clerk and he in Mr. Robinson's presence together?

A. Yes.

Q. Shewn to him by you?

A. Yes.

Q. When was Mr. Robinson taken particularly ill?

A. On the Monday night, about eleven, or half past eleven, perhaps, at night.

Q. What was his complaint then?

A. He was quite deranged.

Q. When did he die?

A. On the 8th, the Monday following.

Q. In all that time was he generally light-headed?

A. Yes, quite so.

Q. Had he a nurse to attend him?

A. Yes, a few days, only a few days.

Q. What was her name?

A. I am sure I do not recollect.

Q. Did the nurse attend him up to the time of his death, or leave him before?

A. She attended him to the time of his death.

Q. You have said before, that you saw Mr. Saxelbye at the house frequently after Mr. Robinson's death; how soon after his death did you first see him there?

A. Perhaps six or seven weeks.

Q. When you say frequently, what do you mean?

A. Perhaps two or three times a week; he was very frequently there two or three times a week.

Q. For how long a time did that continue?

A. I cannot exactly say the time, but for a long time.

Q. Did you ever hear any thing from him about any suit or proceeding about a will?

A. From Mr. Saxelbye?

Q. Yes; that is the question?

A. No, I never did.

Q. Did you ever hear him talking or conversing upon the subject with Mrs. Robinson, or any body else?

A. No, I never did.

Q. Do you know Galland and Wilson the attornies at all?

A. Yes.

Q. Did either of them use to come to the house?

A. Mr. Galland frequently, continually.

Q. Has he ever been there when Mr. Saxelbye was there?

A. I cannot recollect.

Q. Did you at any time take any thing from Mrs. Robinson to Saxelbye?

A. Yes; I took a note to him.

Q. When was that?

A. That perhaps was about six or seven weeks after.

Q. Was that before or after this frequent visiting at the house began?

A. It was before he began to come to visit so regularly; I was to take it to him at Mr. Picard's office; when I got there I did not know him.

Q. You took a note from Mrs. Robinson to Mr. Saxelbye?

A. Yes.

Q. And it was after that he came so frequently?

A. Yes.

Q. Did you see him and deliver the note into his hands, or did you leave it for him?

A. I delivered it myself; I was told to deliver it to himself, and to ask the time when he could call.

Mr. Justice Bayley. You asked when he could call?

A. Yes.

Cross examined by Mr. Serjeant Hullock.

Q. Mr. Galland was a very respectable attorney at Hull, was he not?

A. Yes, I believe so.

Q. He came to your master's house sometimes?

A. Yes.

Q. You spoke of Miss Jane Hewson?

A. Yes.

Q. She is dead, I believe?

A. Yes, she is.

Q. You spoke of Ann Hewson who was present on this day?

A. Yes.

Mr. Justice Bayley. Is Miss Ann Hewson living?

A. Yes, she is.

Mr. Serjeant Hullock. She was with Mr. and Mrs. Robinson?

A. Yes.

Q. You knew Mrs. Stephenson, another sister?

A. Yes.

Q. She is also dead?

A. Yes, she is.

Q. You say you lived with Mrs. Robinson seven or eight months before the death of Mr. Robinson, her son-in-law?

A. No; I said six or seven.

Q. Where did you live before that; were you acquainted in Hull; did you know the inhabitants of Hull before that?

A. No; I had lived very little there before that.

Q. Was that your first place in Hull?

A. The first place I was in.

Q. You knew very little of Mr. Saxelbye during that time?

A. Very little indeed.

Q. Where did you obtain that little acquaintance, such as it was, of Mr. Saxelbye, during the time you lived at Mrs. Robinson's; how did you know there was such a person?

A. I did not know until he came there.

Q. You never saw him in your mistress's house?

A. Yes, I have; I did see him, but did not recollect his person.

Q. How do you know you had seen him, as you did not recollect his person when you saw him again?

A. I did not recollect his person, but I knew he had been there.

Q. How did you know that was Mr. Saxelbye?

A. From his name being mentioned.

Q. From his name being mentioned you took for granted he was the person you had seen before?

A. Yes.

Mr. Justice Bayley. I do not understand that; you told me you had seen Mr. Saxelbye when Mr. Robinson was alive?

A. Yes.

Q. Did you know that his name was Saxelbye?

A. No, I did not know it, except by hearing Mr. Robinson mention his name many times over.

Mr. Serjeant Hullock. You did not know that his name was Saxelbye, except by hearing Mr. Robinson mention his name many times over; was that while he was there, or after he was gone?

A. After he was gone.

Q. Mr. Robinson was not *particularly* ailing I think you say on Sunday the 30th of April?

A. He was not.

Q. His general health had been rather impaired before that time?

A. Yes, it was so.

Q. He had been an invalid, in very bad health before that time?

A. No, he was not so ill before.

Q. Not so ill as to die?

A. No.

Q. I know that; but was not he in very indifferent health for some time before that?

A. He was very unwell, but he could go about.

Q. Was he in the habit of going much about?

A. Yes.

Q. Was he out on an airing on the Sunday?

A. No; but he was on the Saturday.

Mr. Justice Bayley. What do you mean by airing?

A. In a chaise.

Q. In a post chaise?

A. Yes.

Mr. Serjeant Hullock. His mother accompanied him on the airing?

A. Yes.

Mr. Justice Bayley. A chaise hired for that purpose?

A. Yes.

Mr. Serjeant Hullock. They went out for the mere purpose of obtaining fresh air for him?

A. Yes.

Q. They did not go to any particular place, but for the purpose of his health?

A. I do not know where they went.

Q. But you know that they went for that purpose?

A. Yes.

Q. How long before that time, to your knowledge, had he been out at all?

A. I cannot tell.

Mr. Justice Bayley. Had he been out within a week or a fortnight?

A. Yes; within a week.

Mr. Serjeant Hullock. Will you swear that?

A. Yes.

Mr. Justice Bayley. Walking or riding?

A. He was out walking.

Mr. Serjeant Hullock. How often will you swear he had been out walking in the week preceding the 30th of April?

A. I will not swear that.

Q. Will you swear he was out oftener than once within that week?

Q. No, I will not.

Mr. Justice Bayley. Will you swear he was out once during that week?

A. Yes, I will.

Mr. Serjeant Hullock. Knowing he was once, on what day was it?

A. I cannot swear that.

Q. Will you take upon yourself to say, about his either having been out, or his not having been out, on the week before that?

A. No, I will not.

Q. Was that the first or the second time of his being out in a chaise?

A. It was the first.

Q. Unable to go out any otherwise; they were obliged to take a chaise probably?

Q. I cannot say; I was not informed of that.

Q. What medical man attended him?

A. Mr. Young.

Mr. Justice Bayley. Mr. Young was in attendance upon him at that time?

A. Not in regular attendance.

Q, Did he use to come and see him before the 30th of April?

A. Yes, I fetched him once or twice.

Q. On what day?

A. I cannot say.

Mr Serjeant Hullock. Because Mr. Robinson was so ill you went for the apothecary?

A. Yes.

Q. Who sent you for him, his mother or himself?

A. Himself.

Mr. Justice Bayley. How long was that before the 30th of April?

A. I cannot say.

Q. Was it near about that time?

A. I cannot say.

Q. You are very accurate as to every thing which happened on the 30th of April, cannot you recollect how long before that time it was that you fetched him?

A. It might be a week before.

Mr. Serjeant Hullock. He was there on the 30th of April?

A. He was not there on the 30th of April.

Q. Just so; that you swear?

A. Yes.

Q. At no period of the day, between ten in the morning and ten at night, did you see Mr. Young, the surgeon, at Mr. Robinson's?

A. I did not; I did not let him in or out.

Q. I do not ask you that; could he be there without your seeing him?

A. No, he could not.

Q. When was it you saw Mr. Young before the 30th of April.

A. I cannot state.

Q. But you swear distinctly, that he was not there on that day?

A. I do; nor on the Saturday.

Q. You state to us you were in the habit of going out on the Sunday after tea occasionally?

A. Yes, I was.

Q. But not every Sunday?

A. No.

Q. How often did you miss?

A. I cannot say that.

Q. Did you ever miss availing yourself of the privilege on Sunday of going out?

A. Yes.

Q. That you swear?

A. Yes.

Q. And you were not out on the 30th of April?

A. No.

Mr. Justice Bayley. Not after tea?

A. No.

Mr. Serjeant Hullock. Nor at any time of the day?

A. No, I was not.

Q. Was Mrs. Phillipson there that day?

A. She was.

Q. Now I ask you, upon your oath, if you did not go out on that day about three o'clock?

A. I did not.

Q. Between two and four we will say now?

A. I did not.

Q. I ask you upon your oath, whether Mrs. Phillipson did not let you in upon your return?

A. She did not.

Q. Has Mrs. Stephenson a son?

A. Yes, she has a son.

Q. Was he there on that day?

A. No, I never saw him.

Q. Then Mr. Stephenson was never there that day?

A. No, he was not.

Q. Neither could he be there without your seeing him?

A. No, he could not.

Q. Do you remember Mr. Robinson having any celery with his dinner that day, or any dressed for him afterwards?

A. No, there was no such thing in the house.

Q. I know that; but there was none dressed for him that day?

A. No.

Q. If there had been, you, being in the kitchen, and about the house, must have seen it?

A. Yes, I must have seen it.

Q. Did not Mr. Stephenson send some celery for Mr. Robinson, he being desirous of it?

A. Not that day, I am sure he did not.

Q. We are speaking of that day. He did not on that day?

A. No.

Q. And he was never there on that day?

A. No, I never saw him there that day.

Q. Could any body get into the room in which Mr. Robinson sat, without your knowledge; could they go into the passage, and turn into that room, without your seeing them?

A. No, they could not; the kitchen-door was right opposite.

Q. But it falls to by a weight, does not it?

A. There is a little at the back, but it is always propped open; it was always set open; if I shut it, my mistress always put it open.

Q. Was it open on that Sunday?

A. Yes, it was.

Q. By no possibility could any person obtain entrance into that parlour without your seeing them?

A. No.

Q. There are two rooms before you come to the kitchen?

A. Yes.

Q. The kitchen-door being propped open, no person could come in, without your seeing them.

A. No.

Q. There was no other way for a person entering the house?

A. There was no other entrance.

Q. Your mistress and Mr. Robinson lived unaffectionately together; you saw no love?

A. No.

Q. What age was Mr. Robinson; he might have left the house if he had pleased?

A. Yes, he might.

Q. He was a person of fortune and property?

A. Yes.

Q. It was his own fault to be made so miserable day by day?

A. Certainly it was.

Q. Therefore it was matter of preference?

A. I cannot speak to that.

Q. However, on this very day, the day before I mean, they went out airing together?

A. Yes, they were out airing together.

Q. How long did you live with her after that time?

A. As nearly as I can tell, about four years and a half.

Q. That was the time of her death, was not it?

A. No; she died in 1820, and I left in 1819.

Q. Are you still a resident in that town, Hull?

A. Yes.

Q. Were you examined about a will some time ago; were you ever examined before to-day, upon this matter?

A. No, not in court.

Q. I will come to the other examination by and by. You were never examined before my Lord?

A. No.

Q. You did not get examined before my Lord?

A. No.

Q. But you were there?

A. Yes.

Mr. Justice Bayley. When?

Mr. Serjeant Hullock. The last assizes?

A. Yes.

Q. And the assizes before that?

A. No, I was not at York before that?

Q. Was it before the sessions?

A. No.

Q. You were examined before the grand jury at York?

A. No, I was not.

Q. But you went to York?

A. Yes, the last assizes.

Q. Who first applied to you; do you know a person of the name of Rushworth, an attorney of some celebrity at Hull?

A. Yes.

Q. How long have you known him?

A. I really cannot say.

Q. Yes, that you can; how long have you known Mr. Rushworth?

A. Perhaps it may be above a year; I cannot exactly say,

Q. Was he the first person to whom you communicated those circumstances, which you have been telling us to-day?

A. No, he was not.

Q. When did he first apply to you?

A. I cannot say, I am sure.

Q. Your memory must be more perfect on these modern circumstances, than on a transaction of 1815; when was it Mr. Rushworth first applied to you, to take your account of this matter?

A. I cannot say; I did not take particular notice of that.

Q. But you took particular notice of the circumstances which happened on the 30th of April?

A. Yes, because I was there present.

Q. Were not you present when Mr. Rushworth examined you?

A. Yes, I was.

Q. When was it he first examined you?

A. It is better than a year ago; but I cannot say the month.

Q. It was in some month in the last year but one?

A. Yes; I cannot exactly say.

Q. Did you apply to him, or did he apply to you?

A. Oh no! I did not apply to him.

Q. Did he apply to you then?

A. Yes.

Q. That was the first time that he applied to you upon this subject?

A. Yes.

Q. How did he find you out; did he tell you that?

A. No, he did not.

Q. You had been living at that time with Mrs. Robinson?

A. I had been living with her, but not till that time.

Q. But almost to that time?

A. Yes.

Q. You never said a word about this till you had left her service?

A. No; I was never asked.

Q. Have you been in London before on this business?

A. Yes.

Q. How often?

A. Only once.

Q. In what month was that?

A. In October.

Q. You were not here in September; had not you been here twice before the grand jury, in this place?

A. Yes, I have been twice; but only once before this time.

Q. Do you reckon this once?

A. No.

Q. You have been before the grand jury upon this bill of indictment; had you not?

A. Yes.

Q. Were you not before another grand jury, the month before that?

A. Yes.

Q. In this place; I do not mean at this table, but in this building?

A. Yes.

Q. When did you leave Hull this time?

A. Last Sunday.

Q. Were you in London before this time?

A. Yes.

Q. When?

A. About a month or six weeks before.

Q. Upon this business?

A. Yes.

Q. Was that the only time before the present that you were here?

A. Yes.

Q. Recollect yourself; will you swear you were not here in the month of September; I do not mean before the grand jury; but were not you brought by Mr. Rushworth to London in the month of September; no matter what you did when here?

A. Yes.

Mr. Justice Bayley. Do you mean to say you have been here twice before this time?

A. No, only once.

Q. You have not been in London more than once before this time?

A. No.

Mr. Serjeant Hullock. The first time you communicated these matters to Mr. Rushworth you say was more than a year ago?

A. Yes.

Q. Did you ever say one word upon this subject to any human being till after you left your mistress's service?

A. No, I never did.

Q. How soon afterwards did you communicate it, and to whom did you make mention of it?

A. After I left her service; it was eight or ten months.

Mr. Justice Bayley. It was eight or ten months after you left her service before you mentioned it?

A. Yes.

Mr. Serjeant Hullock. To what person did you mention it?

A. I believe Mr. Lockwood was the person I had the first question from.

Q. The same Mr. Lockwood who you say was there the greater part of the Sunday?

A. Yes.

Q. What was the length of time you say that Mr. Lockwood was there?

A. I believe he came in the morning a little after ten, and continued there till one; and a little after two, probably a little more, he returned there, and was there until six.

Q. Mr. Lockwood knew every thing which took place, and he must have known that you knew as well as he what took place at these hours, and who were there?

A. Yes.

Q. And he knew that you knew the same facts as he did?

Q. I do not know; he did not ask me those questions.

Q. Did you let Mr. Lockwood in?

A. I did.

Q. Did you let him out?

A. Yes, I did.

Q. He was in the habit of going there often.

A. Yes.

Q. He knew that you knew all that passed on the Sunday between those hours of ten and one, and two and six?

A. Very likely he might, but he did not ask me those questions.

Q. You let him in, and you let him out?

A. Yes.

Q. Therefore he knew that you saw him go in and out?

A. Yes.

Q. And the first time he applied to you was about a year ago?

A. No, perhaps about eight or ten months after.

Q. After what.

A. After I left Mrs. Robinson.

Mr. Justice Bayley. When did you leave Mrs. Robinson?

A. I believe I left in the month of April; the latter part of it.

Q. You do not know what day?

A. No.

Q. Do you know the day of the week?

A. No, I do not not.

Mr. Serjeant Hullock. What! you do not know the day of the week you left your service, after five years service?

Mr. Justice Bayley. You think it was in April?

A. Yes, I think it was.

Q. Perhaps it might be on the 30th.

A. Perhaps it might be the 27th, I cannot exactly say.

Mr. Serjeant Hullock. Will you swear that you do not know on what day of the week you left your mistress's service.

A. I think it was on a Thursday I left her.

Q. What day of the month?

A. Perhaps it might be the 27th, I cannot say exactly what it was; the latter part of the month.

Q. How soon after Mr. Lockwood applied to you, did you communicate your information to Mr. Rushworth?

A. Perhaps two months afterwards.

Mr. Justice Bayley. After you had stated this to Mr. Lockwood, you did not see Mr. Rushworth for two months?

A. No, I think not.

Mr. Serjeant Hullock. Did he come to you?

A. Yes, he did.

Q. Had you known Mr. Rushworth before that time?

A. No.

Q. You told him that which you have told us to-day?

A. Yes.

Q. As far as your recollection served you?

A. Yes.

Re-examined by Mr. Adolphus.

Q. Now about your being in town and examined before grand juries; have you been examined before a grand jury within these three or four days?

A. Yes.

Q. Were you examined before a jury once before that?

A. Yes.

Q. Were you examined before a grand jury in that room before that?

A. Never before that.

Q. As to your leaving your mistress, did you leave her on ill terms, or by mutual consent?

A. Not by any ill terms at all.

Q. Did you leave her with any feeling of anger or displeasure at all?

A. No, not any at all.

Q. Had you ever any quarrel or dispute or ill will whatever towards Mr. Saxelbye?

A. No, not at all.

Q. In what month of April did you leave your mistress; was it in the month of April last year, or in the month of April in the year before that; was it last April twelvemonth, or two years?

A. Last April two years.

Q. Namely, April 1819?

A. Yes.

Q. Did you ever tell Mr. Lockwood, or Mr. Rushworth, or anybody else, any thing about this business, except when you were questioned about it?

A. No, I never did to anybody.

Q. Since you left Mrs. Robinson, have you been in service, or out of service.

A. In service.

Q. Continually since?

A. Yes.

Q. All the time?

A. Yes.

Q. You are in service now when you are at home?

A. Yes.

Mr. Justice Bayley. Whom are you in service with now?

A. Mr. Ansell.

Q. A single or a married man?

A. A single man, with a family.

Q. He has several children?

A. Yes.

Q. Mrs. Ansell is dead?

A. Yes.

Q. Was she living or dead, when you went there?

A. She was dead.

Q. Are you the only servant there?

A. Yes.

Q. Do you happen to know whether you were out on the 23d of April, in the year 1815?

A. I cannot recollect.

Q. Was Mr. Lockwood there that day?

A. I cannot say whether he was or not.

Q. What is Mr. Lockwood?

A. He is a merchant.

Q. Do you recollect whether there was any company there on the 23d of April?

A. I do not.

Q. Do you recollect whether you were out on the 17th?

A. I do not.

Q. Do you recollect whether you were out on the 7th of May?

A. I was not.

Q. Was there any company there that day?

A. Yes, there was different company there that day.

Q. Were there any people there to stay any length of time?

A. There were several that came to see Mr. Robinson on that day.

Q. They did not see him, did they?
A. Some of them, I believe, did.
Q. Do you recollect who saw him?
A. No, I do not.
Q. Is Mrs. Phillipson here?
A. I am sure I do not know.
Q. Is Ann Hewson here?
A. I do not know?

Mr. Serjeant Hullock. Both of them, my Lord.

Mr. Justice Bayley. Where did you live before you went to Mrs. Robinson's.
A. I lived in York.
Q. With your father and mother?
A. No; I was in service.
Q. Where do your father and mother live?
A. In Hull.
Q. What is your father's name?
A. Thomas Bailey.
Q. Where does he live?
A. In Adolphus-place.

Q. What makes you recollect so particularly what happened on the 30th of April, as you cannot recollect what happened on the Sunday before that; your attention was not called to this for some years after it, was it?
A. No.
Q. Mr. Lockwood never talked to you about it till after Mrs. Robinson's death, did he?
A. No, he did not.

Mr. Baron Garrow. That young woman had better sit down in court, and not go out.

Mr. Thomas Lockwood sworn;

Examined by Mr. Brodrick.

Q. What are you?
A. A general commercial agent.

Q. Living at Hull?

A. Yes.

Q. Were you acquainted with the late Thomas Robinson?

A. Yes.

Q. Did you know his mother-in-law, Elizabeth Robinson?

A. Yes.

Q. When did you first become acquainted with Thomas Robinson?

A. I cannot tell within six months; but perhaps three or four years before, in the year 1812.

Q. Do you remember when he died?

A. Yes.

Q. Three or four years before that time do you mean?

A. Yes.

Q. Was he, when you knew him, living with his mother-in-law?

A. Yes, occasionally.

Q. Were you on terms of intimacy with him?

A. Yes.

Q. Did you visit him?

A. Yes.

Q. Where was he living when you visited him?

A. He was living sometimes in the country, and sometimes with his mother-in-law.

Q. Where did he principally reside?

A. He principally resided with his mother.

Q. Did you say you were in the habit of visiting him frequently at his mother's?

A. Yes.

Q. How often within a few months before his death did you go and see him?

A. Perhaps once or twice a week or more; he came to see me, and I went to see him.

Q. Used you to visit him more particularly on any one day of the week than another?

A. No.

Q. On what day did he die?

A. I cannot tell you that exactly.

Q. Do you remember what day in the week it was he died?

A. No, I do not.

Q. Had you been with him any short time before he died?

A. Yes.

Q. On what day had you been at his house a short time before he died?

A. On a Sunday.

Q. Do you remember what Sunday that was?

A. Yes.

Q. What day?

A. It was the 30th of April 1815.

Q. Did you see him after that day?

A. I saw him after that day, on the Tuesday.

Q. Did you see him after the Tuesday?

A. Yes, I did; but he was struck with death, and therefore I could not have any conversation with him; he was virtually struck with death; he was not dead, but his sensibility was taken from him.

Q. On the Tuesday?

A. Yes.

Q. Does that circumstance enable you to recollect that you were with him on the Sunday preceding?

A. It does, decidedly so.

Mr. Justice Bayley. Do not lead, Mr. Brodrick.

Mr. Brodrick. Certainly not. Had you been with him on any Sundays preceding the 30th of April?

A. I cannot recollect that; I might be.

Q. Do you recollect at what time you went to his house on the 30th of April.

A. Yes.

Q. State at what time?

A. I think about half past ten o'clock in the morning.

Q. How long did you stay there?

A. To the best of my recollection, till the hour of about a quarter past twelve, or till twelve.

Q. Did you go again?

A. Yes.

Q. When?

A. I went again about two o'clock.

Q. How long did you stay with him then?

A. I staid with him till about five, or half past five.

Q. Do you remember any persons who were there the first or the second time you were there?

A. To the best of my recollection there were two ladies there, the second time I was there; the one, Mrs. Phillipson, and I think the other, Miss Hewson.

Q. Where were they when you went there the second time?

A. They were in the room sitting.

Q. Sitting with him?

A. Yes.

Q. Did they remain in the room while you were there, or not?

A. I cannot recollect whether they remained there all the while, or not.

Q. Did you see the prisoner at the bar, Thomas Saxelbye, there on that day?

A. No, not on that day, I did not.

Q. Do you speak positively about that maatter?

A. I speak positively.

Q. Are you sure he was not there between two and half past five?

A. To the best of my recollection he was not.

Q. You say you had been in the habit of visiting Mr. Robinson there often, have you met Mr. Saxelbye there?

A. Yes, I have met Mr. Saxelbye, my fellow townsman, there.

Q. The prisoner?

A. Yes.

Q. How many times did you meet him there?

A. I think about a twelvemonth after his death.

Q. Before his death?

A. I cannot call to mind that I ever met him there before Mr. Robinson's death.

Q. And you say you were there frequently?

A. Yes, I was.

Q. Did you see Mrs. Robinson's servant there, Mary Bailey?

A. Yes.

Q. On the 30th, I mean?

A. Yes.

Q. Had you an opportunity of observing on what terms Mrs. Robinson and Mr. Robinson appeared to live?

A. They generally appeared to be almost usually quarrelling.

Q. As far as your observation went, they appeared to be usually quarrelling?

A. Yes.

Q. Have you had any opportunities of seeing Mr. Thomas Robinson write?

A. Yes.

Q. Have you seen him write once or twice, or oftener, or how?

A. I think, once or twice I have.

Q. Are you able to speak to his hand-writing?

A. Yes, I am.

Q. Look at the signature, Thomas Robinson, at the bottom of that upper paper, and tell me whether, in your belief, that is his hand-writing or not; what is that you have in your hand?

A. Only that.

Q. Look at the signature to the upper paper?

Mr. Justice Bayley. Is that his hand-writing?

A. Will you allow me to explain.

Q. Say first, whether you believe that to be his hand-writing or not?

A. No, I do not.

Q. Look at the other paper, do you believe that paper (A.) to be his hand-writing?

A. Yes, I do; will your Lordship allow me to address you upon this hand-writing?

Mr. Justice Bayley. What is your reason?

A. My reason is, I have delivered to the court that I believe it is not his hand-writing; before yesterday, I should have come into court, and said, that I believed it was his hand-writing, in consequence of the "s" entwining in the first part of the letter "R," and the high part of the letter "R" itself.

Q. That would have been your reason?

A. Yes; but when I observed in the evening another paper ———

Q. Do you mean last evening?

A. Yes, last evening, another paper, with the same blundering "s," and without a turn, and the "T" not made over the "ho" in his usual way of writing; I am called upon, on my oath, to say that which I have said, that I believe it is not his hand-writing.

Mr. Brodrick. I have one question; did you visit Mrs. Robinson after the death of Mr. Robinson?

A. No.

Cross-examined by Mr. Curwood.

Q. What do you say that you are; I think you said you are a general commercial agent?

A. Yes.

Q. What does that mean, any thing, or every thing?

A. It means what you call in London, broker; purchasing and selling for others.

Q. Did you serve any clerkship or apprenticeship to a general commercial agent?

A. No.

Q. How long have you been so?

A. Ten years.

Q. You say, you were acquainted with the late Mr. Robinson?

A. Yes.

Q. How often have you seen him write?

A. I think once or twice, to the best of my recollection; I have seen him sign a check to the bank.

Q. And you think you have seen him write once or twice?

A. Yes.

Q. And, upon that knowledge, you come to prove a man guilty of forgery?

A. Guilty of a forgery!

Q. You come to prove a man guilty of forging his hand-writing, you having seen him write once or twice?

A. I do not come to prove a man guilty of forgery.

Q. What do you come here to prove?

A. That the hand-writing of that is not Thomas Robinson's.

Q. But you say, if you had not seen some paper yesterday, you should have believed it to be his hand-writing?

A. Yes, I should.

Q. Then if you had been examined two or three days back, you would have said that you believed it to be his hand-writing?

A. I should.

Q. I see your name is upon the back of the bill; were you before the grand jury?

A. Yes.

Q. What did you swear there?

A. I gave the same evidence I have given to-day, that I would not swear that it was not his hand-writing; I told them before the grand jury, that I could not positively swear that it was not the hand-writing of Thomas Robinson.

Q. You told them that you could not swear that was not the hand-writing of Thomas Robinson?

A. I told them I could not take upon myself to swear that it was not the hand-writing of Thomas Robinson.

Q. There is so much tautology in your answer, I cannot understand it; what did you swear before the grand jury?

A. I swore before the grand jury different facts, which you may ask me, with respect to my being with Mr. Robinson at the time which that gentleman has asked to; and they asked me whether that was the hand-writing of Thomas Robinson, and I said I could not take upon myself to swear that it was not.

A. Now you take upon yourself to swear that it was not his hand-writing.

A. Yes, and only for these reasons.

Q. How long have you been acquainted with Mr. Rushworth.

A. Mr. Rushworth!

Q. Yes, Mr. Rushworth, a townsman of yours, is not he?

A. Yes.

Q. How long have you known him.

A. Two or three and twenty years.

Q. What did you tell him about the hand-writing?

A. I cannot tell you; I never spoke to him about the hand-writing.

Q. You never spoke to Mr. Rushworth about the hand-writing?

A. Mr. Rushworth asked me about the hand-writing; I might tell him what I thought of it.

Mr. Justice Bayley. You were going to say that Mr. Rushworth had spoken to you about the hand-writing?

A. No; I do not know that he did.

Q. You began the sentence by saying, Mr. Rushworth said something to me about the hand-writing; that may have been a mistake?

A. I mean to answer the questions fairly.

Mr. Curwood. Oh! you shall have them put fairly; how long have you been acquainted with Mr. Rushworth?

A. Personally, these two or three and twenty years; he was there when I first went there; but to know much of him, only two or three years.

Q. Were you a witness at York the last assizes?

A. Yes.

Q. On an indictment against this gentleman for perjury?

A. Yes, I was.

Q. What became of that indictment for perjury?

Mr. Adolphus. How can that question be asked?

A. I know nothing about the indictment.

Mr Serjeant Hullock. What did you go before the grand jury at York for?

A. For perjury for the hand-writing.

Q. For the hand-writing for perjury?

A. Yes; no, stop, my Lord.

Mr. Justice Bayley. For perjury in the hand-writing?

A. No; for perjury to establish their facts, to constitute the will.

Q. You said perjury on the hand-writing?

A. No; in the facts altogether, and its being wrong.

Mr. Curwood. Do you know what you went before the grand jury to prove, or were you to swear to every thing you were asked?

A. Yes.

Q. You were, were you; do you understand the question?

A. I was not to swear any thing that I was asked.

Q. What were you to prove?

A. The fact I was to prove was, that I was there at the time that Mr. Saxelbye swore that the will was made.

Q. Did you not go before the grand jury at York to swear that that paper was not Mr. Robinson's hand-writing; that name?

A. I believe I did.

Mr. Justice Bayley. You believe, that when you were at York, you swore that that paper was not Mr. Robinson's hand-writing?

A. I could not charge my mind to swear that it was not his hand-writing.

Mr. Curwood. You swore just now, that you swore at York, that you believed it was not his hand-writing?

A. To the best of my recollection, I did; I said it did not appear like his hand-writing.

Mr. Justice Bayley. Let me see that I have got you down right; that you believe you swore at York, that you believed it was not Mr. Robinson's

hand-writing; it did not appear like Mr. Robinson's hand-writing; is that right?

A. I believe it is; when Sir George Armitage and Mr. Beverley looked at the paper, they said, I think Mr. Robinson must have been tipsy when he wrote this; I said if he has been tipsy, he must have become so when he wrote the letter "n," for the first is with a firm hand, and the latter part with a different hand.

Q. Sir George Armitage said that?

A. No; Mr. Beverley said that, not Sir George Armitage; I said, if he had been tipsy, he must have fallen tipsy with the latter part of the word.

Mr. Justice Bayley. That he must have fallen tipsy while he was writing the word?

A. Yes, that was what I said.

Q. That the first part was firm and the other not?

A. Yes.

Mr. Curwood. You said just now, that his Lordship had taken you correctly; that you said that you told the grand jury at York, you believed it was not Mr. Robinson's hand-writing?

A. Yes.

Q. Did not you tell me just now, that but for a paper shown you last night, you should have taken it for his hand-writing?

A. Yes; I do say so now.

Q. Then how came you to swear you believed it was not his hand-writing?

A. When I placed the paper before the grand jury, there were fifty other documents there; and I said to the best of my recollection, it deviates so much from the different documents, that, in my opinion, it cannot be Thomas Robinson's hand-writing.

Mr. Justice Bayley. You thought it deviated so

much from the others, that it could not be his hand-writing?

Q. Yes, that was my idea; when I was before the grand jury, Sir George called me from the bar.

Mr. Curwood. Who shewed you this paper the night before last, or last night, from which you acquired so much new light?

A. Mr. Samuel Martin, late a practitioner in the law, but now retired from it.

Q. Being so good a witness before the grand jury at York, how many other grand juries have you been before?

A. The grand jury at York, the grand jury yesterday, and the grand jury the month before.

Q. And the grand jury, in September?

A. No, I was not before that.

Q. You have been before only three grand juries?

A. Only three; that is plenty.

Q. Did you give the same account before those grand juries, as you have given to-day?

A. Yes, I did.

Q. You say you were there on the 30th of April?

A. Yes.

Q. Who laid all those documents before the grand jury at York; you say there were forty or fifty of them?

A. I am sure I cannot say.

Q. Will you swear you believe Mr. Rushworth did not?

A. I am sure I cannot say; they were all read from the papers.

Q. Who conducts this prosecution?

A. Mr. Rushworth, I suppose.

Q. Mr. Rushworth conducts this prosecution?

A. I believe so.

Q. Do not you know it?

A. He subpœna'd me.

Q. Did not you come from Yorkshire with him?

A. No.

Q. Or by his direction?

A. Yes.

Q. Who conducted the prosecution at York?

A. Mr. Rushworth, I believe.

Mr. Justice Bayley. Have you not heard him say so?

A. Yes.

Mr. Justice Bayley. What do you mean, then, by saying you believe?

Mr. Curwood. Who has paid you for your former attendance?

A. Nobody has paid me yet.

Q. Perhaps you are to be paid out of the money when it is recovered?

A. No.

Q. Mr. Rushworth has made you no promise of that kind?

A. No.

Q. Have not you seen all those documents you spoke of, in Mr. Rushworth's hands, before this time?

A. No.

Q. You never saw them before that time?

A. Only before the grand jury at York.

Q. Who produced them there?

A. I cannot say; Sir George Armitage shewed them to me; and I said that was his hand-writing, and that was not; but I said this is a different way from that in which Thomas Robinson signed his name; and you must judge for yourselves.

Q. You said it was a different way from that in which your friend Robinson signed his name, and you did not believe it to be his hand-writing?

Mr. Justice Bayley. No; and so they must judge for themselves.

A. Yes; and so they must judge for themselves.

Mr. Curwood. You saw him write only once or twice?

A. Only once or twice.

Q. Will you undertake to say he wrote his name always the same way?

A. Yes, he did.

Q. That was once?

A. Twice, I think; I can swear to twice.

Q. When were those occasions?

A. When he sent a check to Pease's bank.

Q. Both times?

A. Yes, I think so, to the best of my recollecon.

Q. You have no occasion to turn that over—[*handing a letter to the witness*]—but tell me whose hand-writing you believe that to be?

A. That is Thomas Robinson's.

Q. Tell me that—[*handing another letter to the witness.*]

A. That is Thomas Robinson's?

Mr. Justice Bayley. What are the dates; let me mark them with any letter that I may identify them again.

[*They were handed to his Lordship.*]

Mr. Curwood. Now look at that; whose hand-writing is that?

A. That is Thomas Robinson's.

Mr. Justice Bayley. What are those?

Mr. Curwood. A receipt, my Lord; look at that?

A. That is Thomas Robinson's.

[*They were handed to his Lordship, and marked by him.*]

Q. Look at these—[*handing two letters to the*

witness]—and tell me whether these are in the way your friend, Thomas Robinson, always wrote his name?

A. Yes.

Q. Look at this, there is the different "T," you have spoken of?

A. Aye, this is a different "T;" that is the same "T" as that upon the paper in question; but I never saw it before.

Mr. Justice Bayley. You believe that to be his hand-writing?

A. Yes.

Q. Having seen that, do you believe the other to be his hand-writing.

A. There wants the turn of the letter "n."

Mr. Adolphus. Those are none of them signatures, my Lord.

Mr. Baron Garrow. Oh yes they are.

Mr. Justice Bayley. Look at these three—[*handing down three of the papers.*]—are those "T's" written in the way in which Robinson used to write?

A. No.

Q. Are they all written in the way in which the "T's" on the other papers are?

A. Yes, my Lord, they are; stay a little, my Lord, stay a while.

Mr. Baron Garrow. That gentleman at the table had better sit down, because I observe that the witness's eye mechanically turns towards him.

Mr. Curwood. That is Mr. Rushworth, my Lord.

Mr. Baron Garrow. Then it is the more necessary he should compose himself.

A. I never observed him, my Lord.

Mr. Curwood. I will not pursue this further.

Mr. Baron Garrow. Before you leave the witness, probably you will think it expedient to ask what representation he made to Mr. Rushworth, of this being the signature or not, of Mr. Robinson, and at what period.

Mr. Curwood. I am obliged to your Lordship; I will ask a question upon that.

Mr. Justice Bayley. The letter "T" is the same upon this paper and these two.

A. Yes, the very same.

Q. Then the only reason you think it is not his hand-writing, is, that the letter "n" does not join.

A. No; in his usual way of writing he turned the latter part of his "n" over, and that is not done so there.

Q. But for that, should you have thought it to be his hand-writing?

A. Yes; but for that I think I should have thought it his hand-writing.

Mr. Serjeant Hullock. You say you have been examined several times before grand juries?

A. Yes.

Q. Mr. Rushworth was at all times the attorney for the prosecution?

A. Yes.

Q. He was your attorney?

A. My attorney! he was attorney for the prosecution.

Q. And you were his witness?

A. Yes.

Q. Did he examine you before the first time that you went to be examined, to know what you would say, or did you tell him what you would say?

A. Yes; he asked me different questions.

Q. Did you tell him what you were prepared to swear to?

A. Yes; I told him what I conceived to be the fact.

Q. Did you see that paper before you were examined the first time?

A. No.

Q. Where did you first see that paper which has been put into your hands to day?

A. In Doctors Commons.

Q. When did you first see it?

A. Last October twelve months.

Mr. Justice Bayley. That would be October 1820?

A. Yes, it was then.

Mr. Serjeant Hullock. Did Mr. Rushworth come up with you at that time to see the paper?

A. No.

Q. But you saw him before you came?

A. I saw him before I came.

Q. And he told you at what place you would see it?

A. Yes.

Mr. Justice Bayley. You came on purpose to see it?

A. In part.

Mr. Serjeant Hullock. That was one of the objects of your coming?

A. Yes.

Q. You saw it?

A. Yes; I saw it in Doctors Commons?

Q. And examined it there?

A. Yes.

Q. Having done so, and returned to your residence at Hull, you told Mr. Rushworth you had seen the paper?

A. Yes.

Q. What did you tell him about it?

A. I told him, that upon the first blush of the business, I believed it to be the hand-writing of Thomas Robinson?

Q. What did you say besides, that is, only the first blush?

A. I told him that upon the first blush I thought it looked like the hand-writing of Thomas Robinson, which I represented also before Sir George Armitage, at York.

Q. What you told Mr. Rushworth was, that from the cursory inspection you had had of it in Doctors Commons, you believed it to be the hand-writing of Thomas Robinson?

A. No, not exactly; I said at the first blush of the business, which I explained afterwards, I thought it; but I said he must have forgotten how to write his name, for it is differently wrote from what he usually does write.

Q. You tell us you have seen him write; you screw yourself up only to saying you have seen him write twice?

A. I think not more than that.

Q. From that you judge of his usual character?

A. I have seen various papers of his writing, but I speak to the positive fact of having seen him write his name.

Mr. Justice Bayley. You did not see the paper, till you got before the grand jury at York?

A. No, I did not.

Mr. Serjeant Hullock. Do you mean to say you had not seen these papers which Mr. Rushworth told you were his hand-writing, before you got before the grand jury at York?

A. Yes, I did.

Q. By whom were they shewn to you?

A. I am sure I cannot tell.

Q. Were not they shewn you by Mr. Rushworth, the person who sits opposite to you?

A. Yes, I believe they were.

Q. Have you any doubt about it?

A. No, I have not.

Q. Had not you inspected these papers which Mr. Rushworth shewed you, before you went into the grand jury room at York?

A. No, not one half of them.

Q. They were so numerous?

A. Yes; I do not know how many there were, there might be a score of them.

Mr. Justice Bayley. Do you mean that there were a score produced before the grand jury?

A. Different letters and papers, the same as you have produced some to me here to-day.

Q. Do you mean that you had examined a score before you went there, or that they were produced before you at the grand jury?

A. I had not examined a score before I went there.

Q. How many had you?

A. I suppose half a dozen.

Q. You told us before, that there were fifty papers produced to you at York?

A. I am sure I cannot say how many there were.

Mr. Serjeant Hullock. Do you mean to say, that Mr. Rushworth did not produce to you more than half a dozen papers, which he stated to be in the hand-writing of Mr. Robinson?

A. No, he did not.

Q. Has not he shewn you fifty different papers?

A. No.

Q. Forty?

A. No.

Q. Thirty?

A. No.

Q. How many?

A. Perhaps about half a dozen; I cannot charge my mind to the exact number.

Q. Have you given the same account before all the grand juries, that you would not swear that was not the hand-writing of Mr. Robinson?

A. Yes, I have.

Q. And have told Mr. Rushworth all along, that you could not swear it was not the hand-writing of Mr. Robinson?

A. Yes, I have.

Q. And notwithstanding that, he still persevered in making you his witness before the succeeding grand juries?

A. I cannot help that.

Q. But that is the fact; notwithstanding you told the attorney that you could not swear that the document, which it was his object to prove a forgery, was so, he still persevered in carrying you before the grand juries, to the extent of four or five?

A. He might think there were some other facts that he wished me to prove.

Q. Do you mean to swear, you were not carried by Mr. Rushworth as a witness to the hand-writing?

A. No; the different facts.

Q. I will stake your whole credit, if you have any left, were not you carried there to depose to the hand-writing not being the hand-writing of Mr. Robinson?

A. No, I was not carried for that exact purpose.

Mr. Justice Bayley. Was that one of the questions you were to answer, whether it was or not?

A. No.

Mr. Serjeant Hullock. You mean to swear, that you were not expected by Mr. Rushworth to swear that that was not the hand-writing of Mr. Robinson?

A. I cannot swear to what he expected.

Q. You say you have got no money yet on account of your expenses?

A. I have had money to pay my expenses to

London; I suppose I must have money to take me back.

Q. Who paid them?

A. Mr. Rushworth's son.

Q. Knowing you could not prove this not to be the hand-writing of Mr. Robinson, you having always told him that?

A. He might have known it from the grand jury.

Q. No, from you sir; I ask you directly, upon your oath, if you had not told him before you came into court—

A. No, I had not.

Q. What?

A. I never told him I could swear positively, that it was not Thomas Robinson's hand-writing.

Q. You say the paper was produced before you last night by Mr. Martin, lately an attorney at Hull?

A. Yes.

Q. Who were present at the time?

A. Mr. Martin, myself, and a Mr. Gooddy.

Q. Who is Mr. Gooddy?

A. A corn merchant.

Mr. Justice Bayley. Perhaps you want Mr. Rushworth to assist you in the cause?

Mr. Adolphus. Yes, my Lord; I have no instructions at all to call Mr. Rushworth, and I do not know my instructions without his assistance.

Mr. Justice Bayley. Very well.

Mr. Serjeant Hullock. Did Mr. Gooddy come up as a witness in the cause?

A. Yes.

Q. From the signature to that paper you have changed your mind?

A. I have altered my mind.

Q. I ask you, upon your oath, if you had seen

these names at the head, assuming them to be Mr. Robinson's, whether they would not confirm your original opinion; those are precisely the letters; if you look at those "n's," you will find one with your favourite turn?

A. This is.

Q. This would bring you back again?

A. Yes; the others would not.

Q. This being the last, you can swear now that that is Mr. Robinson's hand-writing?

A. Yes, I can.

Mr. Justice Bayley. Now you believe that the letter "T." is his hand-writing.

A. There is not the turn of the letter "n."

Mr. Serjeant Hullock. There is one without a turn, is that his hand-writing?

A. Yes, I should think so.

Q. Second thoughts are best, now you are of opinion that is his hand-writing?

A. Except the turn of the letter "n."

Mr. Justice Bayley. Look at that, sir; you see, Mr. Thomas Robinson; that is his hand-writing?

A. Yes, it is.

Q. Is there any turn to the letter "n" upon it?

A. No, there is not.

Q. Now look at the other?

A. No, there is not there.

Q. Having seen both these, and knowing them to be his hand-writing, what do you say about it?

A. I am confirmed in my opinion that is his hand-writing.

Q. You are confirmed in the opinion that it is a true and genuine will?

A. I am confirmed in my opinion that this is the hand-writing of Thomas Robinson.

Mr. Justice Bayley. I will ask you one or two

questions; you say now you are convinced that is the signature of Thomas Robinson?

A. Having seen the papers you have exhibited to me, now, my Lord, I am convinced I was wrong in altering my opinion last night.

Q. Yesterday you were of opinion that it was Thomas Robinson's hand-writing?

A. I was.

Q. When you went before the grand jury three or four days ago, what was your opinion then?

A. Yesterday it was I was before the grand jury.

Q. When you were before the grand jury yesterday, you were of opinion it was his hand-writing?

A. I told them it did not appear to be like his hand-writing, but I would not positively swear that it was.

Q. That it did appear to be his writing, but you would not positively swear that it was?

A. I said that it did not appear to be his hand-writing, but I would not positively swear that it was.

Mr. Justice Bayley. Then I misunderstood you; I will alter that; if I understood you before till last night you believed it was his hand-writing?

A. No.

Q. You have said so over and over again in the beginning of your examination, that the last night you were of opinion it was his hand-writing.

Mr. Baron Garrow. "If I had been asked three days ago I should have said it was his hand-writing."

Mr. Justice Bayley. The words I have taken are, yesterday I should have said it was his hand-writing; and Mr. Martin yesterday evening showed me a paper which changed my mind.

A. Yes, it was so.

Q. It was before yesterday evening you were before the grand jury?

A. Yes, it was in the morning.

Q. Then when you were before the grand jury, did you believe it to be his writing?

A. I told the jury it did not appear to me to be the hand-writing of Thomas Robinson; they had the same documents as were before the grand jury at York, but I could not take upon me to say decisively whether it was or not.

Q. When you were before the grand jury in October, did you believe it to be his hand-writing?

A. I have given the same evidence then as now.

Q. Did you believe that to be his hand-writing, when you were before the grand jury in October?

A. It did not appear to me to be his hand-writing.

Q. When you were before the grand jury in October, it did not appear to you to be his hand-writing?

A. No.

Q. And you believed it not to be his hand-writing?

A. I did; but I would not take upon myself to swear.

Mr. Baron Garrow. Mr. Shelton, I wish you would hand me the present record, and the indictment that was quashed on motion.

Mr. Justice Bayley. You were once at York?

A. Yes.

Q. Only once?

A. Only once.

Q. Have you been paid your expenses?

A. Yes, there or thereabouts.

Q. Who paid them?

A. Mr. Rushworth.

Q. How many witnesses were there at York?

A. My Lord, will you excuse my answering

another question; Mr. Rushworth paid me part, and part was paid by Mr. Gooddy.

Q. Mr. Martin's clerk?

A. No; he is a corn-merchant.

Q. One of the witnesses who was with you last night when you saw that paper, that changed your mind?

A. Yes.

Q. How much did your expenses come to for being at York?

A. Perhaps 3 *l.* or somewhere thereabouts.

Q. How many days did you stay there?

A. We were there only one day, or a day and a half, perhaps; I staid on my own business.

Q. You know how long you staid there; were you there at the time the bill was found?

A. The bill was found the day after we arrived; but I thought proper to stay at my own expense.

Q. The bill did not come on for trial when it was found?

A. No.

Q. You were there in the spring to find the bill?

A. Yes.

Q. And afterwards in the summer to try it?

A. Yes.

Q. Who paid your expenses the first time?

A. Mr. Gooddy.

Q. What did they come to then?

A. I cannot tell you, my Lord, within three or four pounds.

Q. How many witnesses were there?

A. I cannot tell that.

Q. Yes you can tell how many were with you?

A. There must have been six or seven, I dare say.

Q. You dined together at the same place, did not you?

A. No, not all of us.

Q. How many used to dine together?

A. It was a mixed company; I did not observe who there were that dined there; I used to go afterwards to my brother's lodgings.

Q. Do you mean to say, you attended the grand jury, and yet do not know how many witnesses there were?

A. I am sure I cannot recollect.

Q. Did Thomas Robinson leave a good deal of property?

A. I think about 15,000*l.*

Q. In money, in personalty?

A. All personalty.

Q. Did his mother-in-law waste it, or did she live economically?

A. I do not know.

Q. She lived in Hull?

A. Yes.

Q. Did she change her way of living after the son died?

A. I cannot tell; I had no sort of communication with her.

Q. The maid knows, of course; have you received your expenses for coming up to town?

A. Yes.

Q. And you were paid your expenses in October last?

A. Yes.

Q. What did they come to then?

A. About three or four pounds.

Q. For coming to town and going back?

A. I was not in town in October; I was in October twelvemonth.

Q. You have been examined only once before a grand jury in London?

A. Yes, I have been examined twice.

Q. Before a grand jury in London?

A. Yes.

Q. Then one must have been in October last; was it not?

A. Yes, it was; I had forgotten that; I was here in October last year too.

Q. You were here in October 1820?

A. Yes.

Q. And again, in October 1821?

A. Yes.

Q. Who bore your expenses both times?

A. The solicitor and Mr. Gooddy.

Q. What is the name of the solicitor?

A. Mr. Rushworth.

Q. Do you know what your expenses were last October?

A. No.

Q. Do not you know how much you received for coming up to town and going down again; did you come with him?

A. Yes.

Q. How did you come?

A. We came in the coach; no, I came with Mr. Gooddy; Mr. Rushworth was in town before, I think.

Q. Do not you know what your expenses were, and what you received?

A. They were paid by Mr. Gooddy.

Q. Who paid your expenses in October 1820?

A. Mr. Gooddy.

Q. Is Mr. Gooddy any relation to Mr. Robinson?

A. Not that I know of.

Q. He is a merchant in Hull?

A. Yes.

Q. He did not come up with you?

A. No.

Q. Did Mr. Rushworth come with you then?

A. No.

Q. You came by yourself?

A. Yes.

Q. Were there any other people besides you came up at that time?

A. No.

Q. Upon your oath, when you got back again, did not you tell Mr. Rushworth that you believed it to be Robinson's hand-writing?

A. No, I will tell you what I said about it; I could not tell whose hand-writing it was; I said, I have seen the hand-writing, and I declare I do not know whose hand-writing it is.

Q. Did you never tell Mr. Rushworth, that you believed it to be Robinson's hand-writing?

A. I think not, my Lord.

Q. Will you be sure you never did?

A. No, I am not certain. Will you allow me, my Lord, to correct you in your observations there; I observed to you before when you asked me, that I observed to Mr. Rushworth, that it was not Mr. Robinson's hand-writing; after I had seen the paper in Mr. Martin's hands, I told Mr. Rushworth, I believe it is Thomas Robinson's hand-writing.

Q. When was that?

A. Yesterday.

Q. Then you told him you formerly believed it was Mr. Robinson's hand-writing?

A. Yes.

Q. Did you ever tell him that before?

A. No.

Q. Was that after you had seen Martin's paper, or before?

A. After I had seen the paper Martin has.

Q. Were you here in October?

A. Yes.

Q. Were there the same witnesses here then that there are now here?

A. No.

Q. How many of them were changed?

A. I do not know; I do not recollect who they were.

Q. Now I will ask you one other question, did all the witnesses come by their real and genuine names?

A. Yes.

Q. You believe that?

A. Yes, I believe that.

Q. Joshua Ellis was here in October, was he not?

A. Ellis belongs to the court in Doctors Commons.

Q. Was Compton here in October?

A. Yes.

Q. Where does he live?

A. I am sure I cannot tell; some city gentleman, or other.

Q. Gooddy was before the grand jury in October?

A. Yes.

Q. He is in town now?

A. Yes, I believe he is.

Mr. Serjeant Hullock. Will your Lordship ask him whether Mr. Rushworth was a witness on all the indictments?

Mr. Justice Bayley. Was Mr. Rushworth a witness on all the indictments?

A. I believe he was.

Mr. Justice Bayley. He is the first witness on the present indictment, the second on the indictment in October.

Mr. Serjeant Hullock. Will your Lordship ask who is Mr. Gooddy?

Mr. Justice Bayley. Who is Mr. Gooddy?

A. A corn merchant.

Q. He is a friend of yours?

A. Yes.

Q. Did he ever help you out of any difficulties?

A. Yes.

Q. Of what kind?

A. Just before I came, a person took out a town's action against me the day before I came; whether it was to stop me, I cannot tell, but Mr. Gooddy gave bail for me.

Q. Was it a just debt?

A. Yes.

Q. For how much?

A. Fifteen pounds.

Q. You have not been often arrested lately?

A. No.

Q. Was that the only time you have been arrested within the year?

A. Yes.

Q. Did you ever make any settlement with your creditors?

A. Yes.

Q. How long ago?

A. About seven years ago.

Q. Not since?

A. No.

Mr. Serjeant Hullock. Perhaps your Lordship will recommend to Mr Lockwood to stay in court?

Mr. Justice Bayley. Yes, Mr. Lockwood had better stay in court.

George Clarke sworn;

Examined by Mr. Adolphus.

Q. What are you?

A. I am a schoolmaster at present.

Q. Where at?

A. At East Stockwith, in Lincolnshire.

Q. Were you formerly a clerk in the house of Pease and Liddell?

A. Pease, Knowsley, Wray and Liddell.

Q. How long ago is that?

A. Up to 1812.

Q. How long were you a clerk?

A. Eight years.

Q. Did Mr. Thomas Robinson cash there?

A. He opened an account there.

Q. Did you know Mr. Robinson well?

A. Perfectly well.

Q. Were you on intimate terms with him?

A. I knew him from a schoolboy.

Q. Did you know his hand-writing well?

A. Yes.

Q. While you were clerk in Pease's bank, have you paid many checks of his?

A. I have seen them come in; I was ledger clerk.

Q. Were you well acquainted with his manner of signing his name on all occasions?

A. Yes.

Q. Look at that square paper, and tell me, whether you believe that or not to be his writing?

A. I believe not.

Mr. Justice Bayley. You mean the signature?

A. Yes; I mean the signature.

Mr. Adolphus. If a check signed as that is, had come to your bank while you were there, should you have recommended the paying clerk to have paid it?

A. Certainly not.

Cross-examined by Mr. Tindal.

Q. I understood you to say, you did not pay the checks that were brought in?

A. I certainly did not.

Q. That was no part of your duty?

A. No.

Q. The paying clerk would be most likely to know the hand-writing of the customers?

A. Both equally.

Q. Your duty was to post in the books the checks brought to you by one of the clerks?

A. By one of the partners, Mr. Liddell.

Q. It was not your duty, on seeing the signature, either to pay the check or refuse it?

A. Not exactly so; but I might sometimes be called to the counter.

Q. Can you take upon you to say, that you were ever at the counter when a check of Mr. Robinson's was produced?

A. I cannot say.

Q. What is the name of the pay clerk?

A. George Turner.

Q. Is he alive?

A. For any thing I know, he is.

Q. Just be so good as to look at that, as you know the hand-writing of Mr. Robinson; look at those three pieces of paper, and state, whether you believe them to be his hand-writing.

A. No; I think not.

Q. No part of them his hand-writing; there is the name of Wilson at the bottom, I did not include that, of course, but the body of it.

A. I think not.

Mr. Justice Bayley. Let me look at them.

[*They were handed to his Lordship.*]

Mr. Tindal. Have you seen him write much?

A. Yes; I have seen him write on many occasions.

Q. Look at the whole face of that letter.—[*Handing it to the witness.*]

Mr. Justice Bayley. Do you believe that to be his hand-writing, or not?

A. I think that is his hand-writing.

Mr. Tindal. Look at that—[*Handing another.*]

A. I believe that is too.

Q. Be so good as to look at the signature to that letter.—[*Handing another.*]

A. That I believe to be his hand-writing.

Mr. Justice Bayley. What is the mark upon that?

Mr. Tindal. They are (C.) and (D.) my Lord; look at that.—[*Handing another.*]

A. That I believe to be his too.

Q. How came you to leave the bank of Messrs. Pease and Company?

A. They discharged me.

Q. Be so good as to state on what account they discharged you?

A. I believe for want of employment.

Q. Was it not for too much employment; in plain English, were not you turned away because you were perpetually drunk?

A. No; I was not.

Mr. Justice Bayley. Not perpetually?

A. No; I was not.

Q. Was there any fault found with you, that induced them to turn you away?

A. No; there was not.

Re-examined by Mr. Adolphus.

Q. Has Pease's bank been continued to this time?

A. Yes; it continues to this time.

Q. You say, you were employed as ledger clerk?

A. Yes.

Q. When checks come in to be paid, were they handed to you to enter the sums upon them?

A. Every afternoon regularly; in the afternoon they were handed to me to examine, and place to the account.

Q. When there was any doubt as to the signature to a check, were you consulted upon it?

A. Surely.

Q. You say, you have known Mr. Robinson from his youth, so as to know his writing; if checks had come in signed in the manner those two letters are, which have been shewn to you, should you have paid them, suppose the name, Thomas Robinson, written as they are there?

A. I certainly should.

Q. Supposing a paper had come in signed, like those names at the top of the bill of parcels, should you have paid them, or hesitated?

A. I certainly should not have been justified in paying them.

Q. You would not have paid them, then?

A. I should have caused inquiry to be made.

Q. Are those three, different very considerably from the signature to the letter?

A. Yes.

Mr. Justice Bayley. The character of the hand-writing is different, is it?

A. Yes, I think it is.

Mr. Adolphus. These are not signatures, but merely at the heads of bills of parcels?

A. Yes.

Q. You say you do not know, whether the person who was pay clerk at Pease's, is there now?

A. He is not there now, but where he is I do not know.

Q. Whether he is living or dead you do not know?

A. No, I do not.

Mr. Justice Bayley. What is your reason for thinking that signature to that small paper, letter (B.) is not his hand-writing?

A. There is no sort of signature similar; there is no similarity whatever to his hand-writing.

Q. It bears no resemblance?

A. No resemblance whatever in any shape.

Q. In none of the letters?

A. None of them.

Q. There is another paper underneath, whose hand-writing is that *(letter* A.)?

A. I should almost consider that his writing.

Q. Would you pay a check signed as that is?

A. There is no signature there, my Lord.

Mr. Baron Garrow. If a check signed in that character of hand-writing had come to you, should you have paid it?

A. There is no signature of Thomas Robinson to this.

Q. Did Mr. Gooddy live at Hull, when you were there?

A. Yes.

Q. Were you acquainted with him?

A. Yes, I knew him.

Q. Were you intimate with him or not?

A. Not particularly so, my Lord.

Q. Did you know Mr. Rushworth?

A. At that time of day I did not.

Q. How long have you known him?

A. Three years.

Q. Had you ever been with him at York?

A. Yes.

Q. How many times?

A. Once.

Q. When was that?

A. Last August assizes.

Q. How many times have you seen that paper which is produced here to you to-day?

A. Four times.

Q. When did you see it first?

A. At York.

Q. That was last August?

A. Yes.

Q. Then you saw it again in October?

A. In the Old-Bailey here, in September, I think.

Q. You were before the grand jury in September, were you?

A. Yes.

Q. Did you come up again in October?

A. Yes.

Q. Then you saw it again yesterday?

A. Yes.

Q. Who paid your expenses all those different times?

A. I came in the coach; I do not know exactly.

Q. You were freed up and down?

A. Yes.

Q. You were freed to York, I suppose, were not you?

A. Yes.

Q. You have no idea what your expenses came to, I suppose?

A. No.

Q. How many times did you see that paper yesterday?

A. Only once.

Q. Did you see the paper that Mr. Martin had?

A. No, I did not.

Q. Mr. Martin or Mr. Gooddy did not shew you any other paper?

A. No.

Q. Did you see any other paper at York?

A. I did not.

Q. How far from Hull do you live?

A. At present, about fifty miles, or fifty-two miles.

Q. That is, at Stockwith?

A. East Stockwith.

Q. Where did you go to in 1812?

A. I resided at Cottingham.

Q. How far is that from Hull?

A. Five miles.

Q. Did you see Mr. Robinson's hand-writing before 1812?

A. Yes, many times.

Q. Did he correspond with you?

A. I have sometimes received a note from him.

Q. The bank dismissed you; they were not satisfied with you?

A. I cannot say.

Mr. Serjeant Hullock. Will your Lordship ask him, whether he has been a witness on an indictment for perjury?

Mr. Adolphus. Yes, he has been, certainly; and there is an indictment found for perjury.

Mr. Justice Bayley. Have you been a witness on another bill to-day?

A. Not to day, yesterday.

Q. On an indictment against the same person for perjury?

A. Yes.

Q. For the same transaction, I suppose?

Mr. Adolphus. On that part of the deposition on which perjury could be assigned, my Lord, I understand there is an indictment found; but I have not instructions in it at present.

Simon Horner, Esq. sworn;

Examined by Mr. Brodrick.

Q. Where do you reside?

A. At Hull.

Q. What are you?

A. A merchant.

Q. Were you acquainted with the late Thomas Robinson?

A. Yes.

Q. Intimately?

A. No, I was not intimate with him.

Q. Were you connected with his family in any way?

A. No, not in any way.

Q. Were you trustee under his father's will?

A. I was executor and trustee under the will of his father.

Q. Have you had occasion to see Thomas Robinson write?

A. Yes, I have.

Q. Frequently?

A. No, only a few times.

Q. Have you such a knowledge from seeing him write as to enable you to speak to his hand-writing?

A. Yes.

Q. Will you look at the signature to that paper marked (B.)—[*handing the paper to the witness, which he examined*]—is that, or is it not, his hand-writing, in your judgment?

A. In my judgment it is not.

Q. You were looking at that very particularly; was that with a view to look at his hand-writing?

A. I thought that the will and the signature to the will were not in the same ink.

Q. Look and see whether that is so?

A. I am satisfied upon that point; my idea is, that it is not the same ink.

Q. When did you see that before?

A. I saw it at York, in August; I saw it again yesterday or the day before; it was the day before I think I saw it.

Q. Were you in town in October last?

A. In August last.

Q. That was at York?

A. Yes.

Q. Were you in town in October last?

A. No.

Q. You have seen it twice?

A. I have seen it twice previous to to-day.

Q. That was before the grand juries?

A. Yes.

Q. Have you seen it at any other times?

A. No; except at York.

Cross examined by Mr. Parke.

Q. You say you have seen him write only a few times?

A. Yes.

Q. Just look at those papers,—[*handing several to the witness*]—look at the body of that first before you look at the head; is that Mr. Robinson's hand-writing?

A. I should think not.

Q. Look at the others?

A. I should think that was,—[*it was handed to his Lordship.*]—And this also I should think is,—[*it was handed to his Lordship.*]—I am disposed to think this is not.

Q. You say your judgment is, that the signature to that will is not his hand-writing?

A. Yes.

Q. You say you have seen it two or three times before?

A. Twice before.

Q. Have you compared it with any other signature of his?

A. I have a variety of documents, notes and letters signed by him, and from my recollection of them I am induced to think that it is not.

Mr. Justice Bayley. It is from a recollection of what papers you form your judgment?

A. From a recollection of my own papers as the executor of the will of the young man's father; I am

satisfied that is not a signature similar to any thing I have in my possession.

Q. From a recollection of his signature when he was dealing with you as executor of his father, you think that is not his hand-writing?

A. Yes.

Mr. Parke. Just look at those letters—[*handing two letters to the witness.*]—What do you think of that?

A. I think that is the hand-writing of Thomas Robinson; and that also.

Q. Who paid your expences when you went to York?

A. I had a sum given me for my expences before I went.

Q. Who gave you that sum?

A. The attorney for the prosecution.

Q. Was that Mr. Rushworth?

A. Yes.

Mr. Justice Bayley. What sum did he give you?

A. Two guineas.

Q. Did that cover your expences?

A. I think it did.

Mr. Parke. Did he pay you both the times you attended?

A. I attended only at York and here.

Q. Who paid your expences here?

A. Mr. Rushworth; he gave me a sum on account.

Q. Before you came up here?

A. Yes.

Re-examined by Mr. Brodrick.

Q. You say there were a number of papers and receipts from which you formed your judgment; were there many of those papers?

A. I think altogether nearly twenty different signatures.

Q. Were you in correspondence with him?

A. Yes, I was.

Mr. Justice Bayley. Up to what date did your correspondence with him continue?

A. I believe from the year 1810 to the year 1813, or at least I have signatures to documents or letters up to that period.

Q. Do you think that is, or is not, his hand-writing—[*handing a paper to the witness*].

A. I am inclined to think that is not his hand-writing.

Q. The other two you think are?

A. Yes.

Q. You think there is a difference between the character of hand-writing in these two?

A. Yes.

Q. Select those which are, and which are not, his hand-writing.

A. I think they are all of one hand-writing.

Q. But you think two are his writing, and the one not?

A. I thought so at first; but I now think they are all his hand-writing.

Q. Having looked at this, look again at letter (B.)—[*The witness examined it.*]—What is your opinion now?

A. I think that the signature to that may be written by the person who has written the other three documents.

Q. Therefore if the others are his hand-writing, they will be his hand-writing too?

A. Certainly,

Q. Hand-writing does to a certain degree vary at different times?

A. Yes, it does; but in the documents I have I never saw a person so extremely regular as he

is in the nineteen documents I referred to; there is a perfect resemblance.

Q. A man may adopt one style of signing, but it may vary, according to whether a man is nervous or not nervous; I know the same book very often exhibits very different characters of hand-writing; your opinion upon these three papers is, that they are his hand-writing?

A. That they are all written by one person.

Q. And you told me before, that you thought, as to those three receipts, the body was his hand-writing, but not the other part?

A. I presume they are in the same hand-writing as the will.

Mr. Samuel Martin sworn;

Examined by Mr. Adolphus.

Q. You were formerly an attorney at Hull, we understand?

A. Yes.

Q. On the 1st of May 1815 had you occasion to call on the late Mr. Robinson?

A. Yes.

Q. For what purpose?

A. To get him to execute the conveyance of a house to Mr. Newbald, who had purchased it of him.

Q. For what sum?

A. 1,200 *l.*

Q. Where did you see him?

A. In his lodging-room.

Q. In his bed-room?

A. Yes.

Q. Who introduced you to him?

A. A servant girl, I think.

Q. Did you see Mrs. Robinson before you went up?

A. Yes.

Q. His step-mother?

A. The widow of his father; his step-mother.

Q. Was he in bed, or up?

A. He was in bed, when I first went.

Q. At what time in the day did you go?

A. As near noon as possible, about twelve or between the hours of twelve and one.

Q. Besides the business you came on, did any thing pass about a will?

A. Previous to my going up stairs—

Q. I do not ask what passed, but whether any thing passed?

Mr. Justice Bayley. That cannot be evidence.

Mr. Adolphus. My question is, besides the business you went on, did any thing pass between you and him about a will?

A. I asked him——.

Q. Answer my question, yes, or no; had you any conversation with him?

A. I had.

Q. Whatever passed between you, was it brought on in consequence of what had been said to you by any body?

A. Yes.

Q. By whom?

A. By Mrs. Robinson.

Mr. Justice Bayley. That cannot be evidence.

Mr. Adolphus. I will not pursue it if your Lordship thinks it is not evidence. Whom did you take with you; did any body go with you to attest the execution of the deeds?

A. My clerk.

Q. What is his name?

A. Francis Stamp.

Q. Had you ever seen Mr. Robinson write before?

A. Oh, yes, I have seen him execute deeds.

Q. Were you well acquainted with his hand-writing?

A. I cannot say that I was.

Q. You cannot say that you were at that time well acquainted with his hand-writing?

A. No.

Q. How often may you have seen him write?

A. Six or seven times.

Q. Within what period of time?

A. The first was when he first came of age, in the year 1810, when he settled with his father's executors.

Q. It was upon that occasion principally you saw him write?

A. Yes.

Q. Do you, from your seeing him write on several occasions, know sufficiently of his hand-writing to give an opinion whether it was his hand-writing, or not?

A. Only from a comparison with those signatures I myself attested.

Q. Do you mean to say you cannot speak without being permitted to compare them, or that your memory is now sufficient to speak to the fact.

A. My memory is sufficient to speak to it; but I can produce them, if necessary.

Mr. Justice Bayley. From the memory of what you saw him write, can you form a judgment whether that is his hand-writing, or not?

A. I could not, without having compared the instruments I myself saw him write; perhaps I should not, from my recollection, be able to distinguish whether it was or not.

Q. Do you derive your judgment only from papers you have seen him sign, or from those papers and others?

A. Letters I have received from him, coupled with those I have seen him sign.

Mr. Adolphus. Look at that letter (B.) and state whether from your recollection of his manner of signing, and coupling that with the papers to which you have referred, you believe that to be his hand-writing?

A. I do not believe that to be his hand-writing.

Q. Did you know him long?

A. Yes, from a child.

Q. What relations had he left at the time of his death?

A. At the time of his death, two maternal aunts and one paternal uncle.

Q. What were the names of his maternal aunts?

A. Susannah Swinney, and Sarah Hurn.

Q. What was the name of his paternal uncle?

A. Thomas Robinson.

Q. Were those all his kin, that you know of?

A. Those were the only kin I knew of. I understood there was another uncle.

Mr. Justice Bayley. It is not from your knowledge of the family, you know that?

A. I do not know the man; I have not seen him since he turned up again.

Q. You are not connected with the family?

A. Not in the least.

Mr. Adolphus. Have you seen the person who claims to be the uncle?

A. Not these thirty years.

Q. Did you know him at that time?

A. Yes.

Q. What was his name?

A. Richard Robinson.

Q. Was he supposed to be guilty of some misconduct?

A. He was transported.

Q. Have you seen him since?

A. Not to my knowledge; he may have passed me.

Cross examined by Mr. Serjeant Hullock.

Q. He was transported to Botany Bay?

A. Yes, so I heard.

Q. Were not you at York at the time he was transported?

A. I may have been; but it was before the time I was upon the roll.

Mr. Adolphus. Will you permit me to ask you what were the names of the husbands of those aunts who were married?

A. I cannot say, indeed; the one was an Irish barrister, and the other a clergyman in Yorkshire.

Mr. Serjeant Hullock. When did you see that first paper (B.)?

A. I saw it in the Prerogative office, some time in the latter end of 1815.

Q. You saw it, without its being accompanied with any other paper, which you knew to be the hand-writing of Mr. Robinson?

A. Yes.

Q. Did you make the comparison afterwards, of which you have been speaking?

A. Yes.

Q. The object of that comparison was to enable you to make up your mind as to the hand-writing?

A. Yes.

Q. Therefore, when you first saw it in the Prerogative court, your recollection did not at once enable you to give an opinion upon it?

A. No, it did not.

Q. If the question had been put to you when you issued from the room in the Prerogative office, where

you had seen it, what would have been your answer?

A. That it was utterly impossible for me to give an opinion. I could not have given an opinion.

Q. If the question had been put to you at that time, you would have declined giving an opinion upon it?

A. Just so.

Q. Did you afterwards collate, that with the documents in your possession, which you had seen him write, or go home and compare in your memory, what you had seen here with what you saw there?

A. No, I did not look at them at that time; the mode in which I made up my mind was, by comparing that document with others.

Q. And you found some dissimilarity between that name and some of the letters in the names which you knew had been written by Mr. Robinson?

A. A total dissimilarity.

Q. From that dissimilarity you have been enabled to come to the conclusion you have stated to-day?

A. From that, and that only.

Q. It is not at all like his hand-writing, as I understand you?

A. It is not; I allude to hand-writings in the year 1810, and the day which has been spoken of, of the execution of the conveyance.

Q. That was the first of May?

A. Yes.

Q. You went to inspect that document as the solicitor to the Robinsons, did you not; what led you to the Commons to make the inspection?

A. I was desired by my partner, being in London, to go and look at it.

Q. Were not you and your partner professionally concerned for them at that time?

A. Yes.

Mr. Justice Bayley. You were employed for the next of kin?

A. Yes.

Q. You were desired by your partner, I think you say, to inspect it?

A. Yes.

Mr. Serjeant Hullock. By Mr. Scholefield?

A. Yes.

Mr. Justice Bayley. What time in 1815 was it you saw it?

A. I think it was in November.

Mr. Serjeant Hullock. You have left the profession?

A. Yes.

Q. Who is employed by the parties now?

A. Mr. Rushworth.

Q. How long have you known him?

A. Ever since he was clerk in Hull; twenty years ago.

Q. He has not been in Hull all that time?

A. He was in Lincolnshire, at Spaldwick, or Spalding, or some such place.

Q. Is he employed in it now?

A. They sent me eight guineas with my subpœna.

Q. Who were they?

A. His clerk.

Q. Were you at York in the summer?

A. Yes.

Q. The only times you have been called upon were at that time, at York, and to-day?

A. No; I was here the last sessions in October, and gave evidence before the grand jury; I have been subpœna'd thrice; once at York, once to go before the grand jury here, and to-day.

Q. Did you see Mr. Gooddy and Mr. Lockwood last night any where?

A. Yes.

Q. You made a convert of Mr. Lockwood last night, did not you?

A. He desired to see the documents with the signature of Robinson, and they were all shown to him.

Q. And they produced a great effect upon him?

A. I do not know indeed.

Q. Did he say nothing?

A. He said he saw—

Q. That is seeing, not saying?

A. I really do not recollect that he did; he was shown every signature that I had.

Q. Whether it made any impression upon his mind, with respect to his opinion upon the legitimacy of that hand-writing, nothing which passed from him showed you?

A. He seemed to think it was not Robinson's hand-writing.

Q. Nothing fell from him on the subject of that paper?

Q. He said that paper was a forgery.

Q. You had heard him say that before last night, had not you?

A. Yes.

Q. You have heard him say that, I dare say several times, whenever you have been in his company?

A. I have not been much in his company.

Q. Your situation as a witness has led you into some society which perhaps you are not often found in; you have often heard Lockwood state that before?

A. No.

Q. How often; once or twice?

A. I do not know that I ever saw him make a comparison before last night.

Mr. Justice Bayley. Have you heard him say before that it was a forgery?

A. Yes.

Q. How often?

A. I think once at York, I think I heard him say so.

Q. Having had no doubt about it before, what made him examine those documents in your custody last night?

A. He gave no reason.

Q. Did the request come from him or from you?

A. From him; I retired from the hotel where I was dining, and he came to me.

Q. Who came with him?

A. Mr. Gooddy.

Q. What time might the inspection occupy?

A. Perhaps a quarter of an hour.

Q. He examined attentively the different documents you produced?

A. Yes.

Q. Did he say, after he had examined them, now I am satisfied that is a forgery?

A. I do not know that he did; he seemed to be satisfied it was a forgery.

Q. He seemed, you say, to be satisfied?

A. Yes.

Q. Look at this, and give me your opinion whose hand-writing you would judge the body of these receipts to be?

A. Oh, the deceased; yes, I am clear in my opinion that that is the deceased's writing. I am not so clear about this, but my belief is, that it is his also; I am not so clear in this, but I believe it; but the rest I think is unequivocally his.

Q. Those are in August 1810, which are contemporaneous acts to the signatures to which you have been referring yourself?

A. Yes, those are in August 1810.

Q. Just look at that paper again, and tell me on

what you ground your belief of that not being his hand-writing, and compare this with those; one of which you distinctly state is his hand-writing, and the other you have a tendency to believe his?

[*The witness examined them minutely.*]

A. The "Thomas Robinson" at the top of this note certainly has some of the characters of the signature to the script; but in all those documents that I compared with the script, the "T" has quite a different character.

Mr. Justice Bayley. The "T" is the same character in this paper and in the script; but that is different from the "T's," in the paper to which you refer?

A. Yes; and it appears that he had a coxcombical way of signing; and when he signed "Thomas," he wrote the "T" in the same way as if he was going to write "Thomas Robinson's compliments;" but he had a particular mode of signing; that is, different from this character.

Q. He would write "Thomas," if at the end of a letter, different from what he would at the beginning of a note; is that what you mean to say?

A. Yes; the signature was a particular signature, of a coxcombical cast certainly.

Mr. Serjeant Hullock. If that "T" had been put into that name of "Thomas" to the script, in your judgment you would have thought it was his hand-writing?

A. No.

Q. What is the other difference; you had confined us to the "T."

A. The "son," with the period, are distinctly different.

Mr. Justice Bayley. From those three receipts, or from what you used to see?

A. From both; there wants the period to the script, and the "son" is very widely different from

those three, as well as from those I had formerly compared with it.

Q. There wants the period at the end?

A. Yes.

Mr. Serjeant Hullock. Are the signatures to those documents to which you have been alluding uniform?

A. They are; and they are here, if you wish to see them.

Q. We have been told to-day by Mr. Lockwood, that there was a *T* among the documents you shewed that changed his opinion?

A. There is one of the documents that I have no doubt Mr. Frost knows very well, which I said was nearer the forgery than any other; I will produce it; if you wish; I shewed Mr. Frost all the documents; you wish to have them produced to you?

Q. No, I wish to have that produced to which you refer, and which you shewed to Mr. Lockwood?

A. That is it [*producing it.*]

Mr. Justice Bayley. That is the one where the *T* is alike?

A. I thought it more like than any one of the signatures.

Q. It is the character of a man who had a great command of pen; he had a great command of pen, had not he?

A. I believe he had, but not from my certain knowledge; he appeared to have the power of what schoolboys call striking the letters.

Mr. Serjeant Hullock. I want a quieter one than that; that is so straggling I cannot make any thing of it?

A. If you want another, I will give it you, but that is the one most like.

[*The witness produced another.*]

Q. You are the subscribing witness to this?

A. Yes, I was.

Q. Without that you would not have been able to recollect it?

A. I should not have had a recollection or knowledge of his character, to enable me to speak decidedly upon it.

Re-examined by Mr. Adolphus.

Q. These papers both bear date in 1810, five years before his death?

A. Yes.

Q. And those are written in a flourishing style, such as you would not have recollected if you had not attested them?

A. Yes.

Q. Have you with you the deed he executed in the month of May 1815?

A. Yes, I have.

Q. Will you produce it?

Mr. Serjeant Hullock. This is new matter.

Mr. Adolphus. It is a question of comparison of writing on his evidence; that you attested also?

A. Yes.

Q. It is a lease and release?

A. Yes; and a receipt indorsed for the consideration money, all signed by the deceased.

Q. And that upon the morning of the 1st of May?

A. No, upon the noon of the 1st of May.

Q. Are they in any degree like that script marked (B.)?

A. No, there is the same variance that the other instruments have.

Q. Are those signed with that curious *T* you describe?

A. Yes.

Q. Have you two papers on which you found your judgment?

A. Yes.

Q. About what time are they dated, the year 1810?

A. The same day that the two papers I have put in are signed, and several letters.

Q. Written subsequently?

A. No, all about the same time.

Q. Are they signed in hands considerably different?

A. They are signed in hands exactly like these four documents.

Q. They are all signed alike, are they?

A. Yes, they are.

Q. You are a professional man, or have been a professional man yourself; you have been asked about your expenses; does not the attorney always pay the witnesses the expenses wherever they go?

A. They ought to do.

Q. They undertake to pay, or are liable to pay on all occasions, civil and criminal?

A. Yes, certainly.

Mr. Justice Bayley. No doubt every attorney ought to pay; it is not with that view the question is asked; the attorney may be a great loser if he has not some fund out of which he may get repaid?

A. Very often.

Q. It is a great object with him to get a good fund, out of which he may be repaid?

A. Undoubtedly.

Q. From what you have seen of the character of that man's hand-writing, had he or not a great command of penmanship?

A. In my opinion, he had; but not from my own experience.

Q. You can tell from the character of the hand-writing?

A. Yes, I think he had.

Q. Upon particular occasions he used to sign in a very particular way at the bottom of deeds; and sometimes at the bottom of letters?

A. I do not know that I ever saw him sign any thing but those instruments I have put in and witnessed.

Q. Have you seen his hand-writing when it has not been by way of signature?

A. Yes.

Q. Was his character of hand-writing very different where it was by way of signature and otherwise?

A. Yes, the top of the "T" was very different.

Q. Were not all the other letters different?

A. No, the signatures to the letters are in the same character with the other papers which I witnessed; they are here.

Q. You examined this in November 1815?

A. Yes.

Q. If at that time you had a conviction that it was a forgery, would it not have been your duty to your clients to make the communication to them to that effect?

A. A communication to that effect was made to them then.

Q. And they did not think fit to sift it then?

A. Yes, we were before the Prerogative court at that time, and the proof put in was such as we could not invalidate at that time, and therefore when called upon to plead, we did not plead, and judgment was pronounced for the script.

Q. You did not at that time attempt to prove it was a forgery?

A. We had not the means.

Q. If you had called upon the defendant at that period of time, he might have had the means of accounting far better at that time than at this distance?

A. He did account for it, by swearing before the court.

Q. And you could not contradict that oath?

A. We had not the proof; I had never compared these papers.

Q. You had the documents in your own possession?

A. No; the documents were in the possession of the executor, Mr. Horner.

Q. You knew that Mr. Horner was the executor of Mr. Robinson's father?

A. Yes.

Q. And you knew that those documents were in his possession?

A. I never meddled with the suit, but Mr. Scholefield.

Q. Did you know that these documents were in the possession of Mr. Horner?

A. Yes, certainly.

Q. You knew in 1815, that there was a person who had genuine signatures of Thomas Robinson in his possession?

A. It did not occur to me; I did not conduct the suit.

Q. Your partner conducted the suit?

A. Yes.

Q. And he desired you to go and look at the document itself?

A. Yes.

Q. Did you know who the deceased's banker was.

A. Pease and Liddell.

Mr. Justice Bayley. There is one paper you produced I should wish to have.

A. It is the direction to transfer stock.

Q. Just look at that; hold it in your hand for one moment, and look at that lease for a year; compare these two together, and tell me whether they are or are not very different hand-writings?

A. Yes, they are; he was in an imbecile state when he signed this deed.

Q. I believe that the T in Thomas, at the bottom of the deed, is at the head of it continued a considerable length.

A. Yes.

Q. But in other respects the two hand-writings differ very materially; do not they?

A. They differ, but I think not very materially; they do differ something.

Q. Look at the script, and tell me in what particulars the Thomas Robinson there differs from the Thomas Robinson at the bottom of the deed, not at the back of the stock receipt.

A. The T upon the deed appears to me to be written from the bottom; the T upon the script appears to me to be bigger at the top; the top made first, and continued that way.

Q. Is that the only material difference between the characters of the hand-writings?

A. Yes, as to the "Thomas," but the "son" at the end of Robinson is materially different in the one from the other.

Q. In other respects do they bear a similarity?

A. The R's in Robinson vary a little.

Q. In other respects do they bear a similarity?

A. The first "o" in the script is different from that in the deed; the "bin" in Robinson appears to be the same character.

Q. Now I will just get you to look at the deed itself; I see the deed bears date on the Saturday, but it was not executed till the Monday.

A. It was not; the last day of the month was Sunday; they were signed on Monday the first of May.

Q. Look at that deed; is that signed as the lease for a year is signed?

[*The witness inspected it.*]

A. Yes.

Q. There is the same difference between the one and the other in both cases?

A. Yes.

Mr. Justice Bayley. There is the receipt for the consideration money; but it is not very material to pursue this.

Charles Jeff sworn.

Examined by Mr. Brodrick.

Q. What are you?

A. A tailor and draper.

Q. Living at Hull?

A. Yes.

Q. Were you acquainted with Mr. Thomas Robinson?

A. Yes, I was.

Q. Were you intimately acquainted with him?

A. I was his tradesman.

Q. How long have you known him?

A. From 1804 till his death.

Q. Had you any opportunities of seeing him write?

A. Yes, I have seen him write.

Q. Frequently, or otherwise?

A. Not frequently.

Q. Had you any communications from him?

A. Yes, I have had notes from him.

Q. Have you from those sources such a knowledge of his hand-writing, as enables you to speak to any document?

A. Yes.

Q. Look at that paper, letter (B.) and tell me whether it is, in your judgment, his hand-writing or not?

A. No, I should think it is not his hand-writing.

Cross-examined by Mr. Curwood.

Q. I think you say you have not frequently seen him write?

A. No, not frequently.

Q. That is an indefinite term; how often do you think you have seen him write?

A. In the course of that time I should think I have seen him write probably half-a-dozen times.

Q. That was in the course of five or six years?

A. Yes.

Q. Eleven years I should have said; in the course of eleven years, you may have seen him write half-a-dozen times?

A. I think so.

Q. Is that at all like his writing, or wholly unlike it?

A. I think it is wholly unlike it.

Mr. Justice Bayley. Gentlemen of the Jury. It occurred to me, that it might assist you in appreciating and judging of the evidence, if you were just to cast your eye upon the different documents now.

A Juryman. We wished to do it now, my Lord.

Mr. Justice Bayley. I will look over the papers, and see what have been put in in evidence; I have marked them all.

[*They were handed to his Lordship, and by his Lordship to the Jury.*]

Mr. Justice Bayley. These two [*handing them*

down] are not in evidence, I have not marked them.

Mr. Adolphus. I thought Mr. Martin spoke to them; however it does not signify; there are two or three of them written about the same period; it is not worth while to call him back for that.

Mr. Curwood. As you say you have a knowledge of Mr. Robinson's hand-writing, I will just double this down, and you will tell me whose hand-writing you believe it to be?

A. I think it is Mr. Thomas Robinson's hand-writing.

Mr. Justice Bayley. What is that?

Mr. Curwood. This is another paper that has not been put in before. I think the last answer you gave me was, that you thought the script is wholly unlike his writing?

A. Yes.

Q. Is it so unlike that you think it could not deceive any one acquainted with his hand-writing?

A. I think it could not.

Q. Tell me in what respects is it unlike his hand-writing?

A. In the latter capital, particularly so.

Q. In the R or the T?

A. The R.

Q. What is the difference between the R and the R he usually made?

A. It seems to be more extended.

Q. What, do you mean freer?

A. Yes.

Q. Do you see any difference in the T he usually made?

A. There is some difference in the T, but not so much as in the R.

Q. Is the T like his hand-writing, or not?

A. I think it more like his hand-writing than the R.

Q. The T might have passed with you perhaps for the hand-writing of Mr. Robinson?

A. Better than some others.

Q. Would the T have passed with you for his hand writing, or is it so unlike, you should not have taken it for his hand-writing.

A. I cannot speak as to that.

Mr. Justice Bayley. Then the T might have passed for his hand writing?

A. I cannot say.

Q. They wish to try your credit by putting to you particular letters; what do you say to that?

A. The T might have passed better than some others.

Mr. Curwood. Then the T is not wholly unlike his hand-writing?

A. I can only say the same as I have before.

Q. Would it pass with you for his hand-writing, absolutely?

A. The "T" does not come alone for hand-writing.

Q. What you speak to is merely the "R"?

A. I speak generally, that is, to the signature.

Q. I wish to know the particular parts of the signature from which you say it is not genuine; what are the parts?

A. I have told you before; the "R" particularly.

Mr. Justice Bayley. Is there any other letter besides the "R," which you find to be different from his hand-writing?

A. The "son" is particularly unlike it.

Q. The "T" you do not say is particularly unlike it.

A. If you will allow me to look at the "T" again.

Q. Look as long as you like. [*The witness examined it again.*]

A. Mr. Martin was shewing me some signatures, and I wish for them to compare.

Mr. Justice Bayley. Mr. Martin shewed you some signatures?

A. No, my Lord.

Mr. Rosser. He was looking over Mr. Martin when he was examining the signatures just now.

Mr. Curwood. This you say is Mr. Robinson's hand-writing.

A. Yes.

Q. Now look at "Thomas Robinson" there, and then look at "Thomas Robinson" in the others, and say what you think of them?

A. Certainly the "T" is more like.

Q. What is your judgment upon looking at that time?

A. I give my judgment upon the whole signature, that it is very unlike it.

Q. Have you been before many grand juries?

A. No, never before.

Q. You were not a witness at York, perhaps?

A. I was not.

Mr. Serjeant Hullock. Were you at York?

A. Yes.

Mr. Justice Bayley. Do you mean to say you went to York for the purpose of being examined, but were not examined?

A. I was subpœna'd to York, but not examined.

Mr. Justice Bayley. Then you should not say you were not at York as a witness.

Mr. Curwood. Who has paid your expenses—do you forget that already?

A. Has it any thing to do with the present question?

Mr. Justice Bayley. Who has paid your expenses?

A. Mr. Rushworth.

Mr. Curwood. I will not waste more time upon you.

Mr. Justice Bayley. He paid you your expenses to York, I suppose, and your expenses here.

A. He paid my expenses to York?

Q. Has he paid your expenses here?

A. No.

Q. Who has?

A. Mr. Gooddy.

Q. They are paid, are they?

A. Yes.

Q. Were you here in October?

A. No.

Mr. Richard Gooddy sworn.

Examined by Mr. Adolphus.

Q. What are you?

A. A merchant, at Hull.

Q. Did you know the deceased, Mr. Robinson?

A. Yes.

Q. Intimately or slightly?

A. I have been acquainted with him for many years.

Q. Did you use to visit at his house?

A. Yes.

Q. At the mother's house, where he lived?

A. Yes; his mother and my wife were very particularly acquainted; we used to visit there frequently.

Q. Did his mother and he live on good terms, or otherwise?

A. I believe on very bad terms.

Q. Do you believe that from what you have heard other people say, or personal knowledge?

A. I have heard him and his mother both declare it many times.

Mr. Justice Bayley. Did you ever see them quarrel?

A. I never saw them quarrel, but I have heard them speak very disrespectfully of each other.

Mr. Adolphus. Did you know the hand-writing of Mr. Robinson?

A. Yes.

Q. Did you know it well?

A. Yes.

Q. Have you seen him write on many occasions?

A. Yes, I have seen him write repeatedly, many times.

Q. How many times do you think?

A. Many score times in my lifetime I have.

Q. Look at that signature, Thomas Robinson, and tell me, whether you believe it to be his hand-writing?

A. No, to the best of my belief, it is not.

Q. Have you seen that paper before?

A. Yes.

Q. How often?

A. I think four times before this.

Q. Have you always been of the same opinion concerning it?

A. Always.

Q. Did you derive that opinion from your memory of the deceased's hand-writing, or from any examination of papers in your own possession, or shewn you by others?

A. As soon as I saw it, I formed the opinion

from my knowledge of the young man's handwriting.

Q. Do you know his family; do you know what relations he has?

A. He has, I think, two aunts and two uncles.

Q. What are the names of the two uncles?

A. Richard and Thomas.

Q. Richard and Thomas what?

A. Robinson.

Q. And two aunts, whose names are what?

A. I really do not remember the names of the aunts; I think one of the aunts is lately dead; but I will not be sure.

Q. But he had these at the time of his decease?

A. Yes.

Cross examined by Mr. Serjeant Hullock.

Q. Is Richard the traveller.

A. Yes.

Q. When did he return from his travels?

A. I think he returned to Hull in March 1820.

Q. He is a wealthy man, is not he?

A. I think he is not very wealthy.

Q. He is very poor, is not he?

A. I think he expects some consignment from abroad.

Q. From Botany Bay?

A. Yes.

Q. He is very poor?

A. Yes.

Q. Is his brother equally poor?

A. Yes.

Q. Who supplies him with money, then?

A. A person of the name of ——.

Q. Of the name of Gooddy?

A. No; I advanced him a little money when first he came; and I found that he required more

advance than I could make convenient from my business; and another gentleman came forward, and advanced him, and repaid me what money I had advanced.

Q. Who is the gentleman?

A. Mr. Carter.

Q. A publican?

A. Lives private; he is a gentleman.

Q. He did once keep a public-house?

A. He did once.

Q. An ale-house at Hull?

A. Yes.

Q. And now he is a gentleman?

A. Yes.

Q. Where does he live?

A. In the neighbourhood of Hull.

Q. Is he here?

A. No, I believe not.

Q. Mr. Carter advances all the money now?

A. The whole of the money which has been paid, has been advanced by him.

Q. Did not you go with Mr. Carter, to endeavour to get 200*l.* upon the expectation of this, from Mr. Wilson, a corn-factor of Hull?

A. No, Mr. Carter went himself; but I did not go. Mr. Wilson sent to ask me, whether I would join him in a note for it; but I declined it.

Q. I think at one time you said it had cost you 1,000*l.* already?

A. No; I said I believed the suit had cost nearly that.

Q. You did not say it had cost you that?

A. No.

Q. You did not say it should cost you another thousand, before you would give it up?

A. No, I never said those words.

Q. What are you to have from the gentlemen, Richard and Thomas, if you get this set to rights?

A. I have no expectation of any thing whatever.

Q. You mean to swear, that no arrangement was made between you and them, do you?

A. I do swear, that he informed me, when he first applied to me for money, if I would do it, if he was successful, he would reward me; but I declined.

Q. Who told you that?

A. Richard Robinson; but when I found it required so much money, I refused to go farther.

Q. Have you taken no part in it since that?

A. That was just at the time that I began to make inquiry.

Q. You continue down to this time to be the paymaster; you have paid some of them for coming to London?

A. Mr. Carter has given me some money for them.

Q. Do you mean to swear, you have not paid money for some of these persons?

A. When Mr. Rushworth told me to whom to pay money, I paid it.

Q. He trusted you?

A. He told me to whom I was to pay the money.

Q. You did not hand the money over to Mr. Rushworth.

A. I gave him the money, and he returned part of it to me.

Q. He returned it?

A. I gave him the money Mr. Carter gave me; and he has given me back some of it.

Q. When was it you first interposed in these proceedings?

A. As soon as the person arrived from abroad;

my wife and he being intimately acquainted, before we went he came to call upon my wife.

Mr. Justice Bayley. How long have you been married?

A. About fourteen years.

Mr. Serjeant Hullock. This gentleman having been abroad about thirty, you knew nothing of him?

A. No; he was an acquaintance of my wife's, before he went.

Mr. Justice Bayley. What age is your wife?

A. I think about fifty-two or fifty-three.

Mr. Serjeant Hullock. Being an acquaintance of your wife, you knew the other part of the family—Thomas Robinson, for instance?

A. Yes, since I was married to my wife.

Q. Your wife was equally a friend of his, as of Richard?

A. Yes.

Q. What made you delay your operations till Richard's arrival; it is very uncertain when persons get back from remote lands?

A. The other brother never applied to me.

Mr. Justice Bayley. Where does he live?

A. He lives about four miles from Hull.

Q. But he never applied to you?

A. No.

Mr. Serjeant Hullock. As soon as your wife's friend came from abroad, you stirred yourself?

A. He called upon her, and wished I would make inquiry on his behalf.

Q. When was it he came?

A. In March 1820, I think, or the latter end of February.

Q. Who is your professional man at Hull, when you want one?

A. Mr. Frost always did my business before.

Q. You would naturally apply to Messrs. Frost and Son?

A. Yes, and I did in this case; and Mr. Frost gave me answer, that he was employed by the other party, and could not undertake it.

Q. To whom did you apply next.

A. I never applied to any other. Mr. Robinson himself applied to Mr. Rushworth.

Q. You did not apply to Mr. Rushworth, nor he to you?

A. No.

Q. You say you have seen Mr. Robinson write several times?

A. Yes.

Q. What have you seen him write?

A. I have seen him write to a gentleman in Newcastle, about lead, and to several persons.

Q. You did not read the letters?

A. Yes, he has shewn me the letters; he has inquired the price of lead, and different things, and has both shewn me the letters he had from Newcastle, and the letters he wrote.

Q. The letters he received from Newcastle would not enable you to know his hand-writing?

A. No, certainly not.

Q. Do I understand you to say, that that is totally dissimilar to his writing?

A. Yes, to all the signatures to the letters I have seen him write.

Q. But to his hand-writing generally?

A. Yes, I think so.

Q. No person, who knew his hand-writing, could mistake it?

A. I should never have taken that for his hand-writing.

Q. The moment you saw that, you said it was not his hand-writing?

A. Yes.

Q. You have taken the trouble since to satisfy yourself?

A. I was quite sure.

Q. Have not you compared that with other signatures since?

A. I have, whenever I could catch one, to see whether I could find any one similar to that; but I never could.

Q. Your object was to find out one similar?

A. If I could have found one that was similar to it, I never would have made any further inquiry, nor done any thing at all in it.

Q. Look at these, and tell me whose hand-writing these are; in your judgment, I mean.—[*handing papers to the witness.*]

A. I should think this is Thomas Robinson's hand-writing.

Mr. Justice Bayley. With what letter is that marked?

Mr. Serjeant Hullock. E. my Lord.

A. I should not think that was his.

Mr. Tindal. That is F. my Lord.

A. I durst not swear that to be his hand-writing.

Q. What is your belief?

A. My simple opinion is, that it is not; but I really would not take upon myself to say.

Mr. Tindal. That is G. my Lord.

A. I should think that is his hand-writing.

Mr. Serjeant Hullock. Just compare this signature with the name at the foot of that script?

A. I should think they are not written all by one hand, not this and that.

Q. Are they different from each other?

A. I conceive myself, in my judgment, there is a difference.

Q. What is the conception you are pregnant with, just let us see what it is?

A. I perceive a complete difference both in the "T" and the "R," and likewise in the "n," and likewise in the "h."

Q. Any other difference?

A. There is a difference in the "o," likewise in all the "o's."

Q. They are quite distinguishable from each other in all respects?

A. In my estimation they are.

Q. If these had been shewn to you before, when you were in search of a signature like the script, you would have been of opinion that they differed as much as the others you have seen?

A. Not quite so much; but they differ so materially, that I should have given my opinion, that they were not his hand-writing.

Mr. Justice Bayley. Did you advance any money, at any time, in the suit?

A. At the first commencement I did advance a little.

Q. How much did you advance at first?

A. I think 100*l.* before he met with Mr. Carter.

Q. Did you advance that all in one sum, or in different sums?

A. In different sums.

Q. How did you expect to be reimbursed?

A. I never expected any reimbursement; it was on account of his acquaintance with my wife I advanced it.

Q. You never expected to be reimbursed?

A. Not if he was unsuccessful.

Q. If he was successful, what then?

A. That if he was successful, he would repay me.

Q. When did you meet with Mr. Carter?

A. I think it was about the month of June or July, when he first met with him.

Q. June or July, 1820.

A. Yes.

Q. Then Mr. Carter repaid you.

A. Yes, he did; he repaid me the whole I had advanced.

Q. Are you sure it was only 100*l.*?

A. No more.

Q. How much has Mr. Carter advanced since?

A. I really cannot speak to that.

Q. How much, of your own knowledge, has he advanced?

A. I should think about 500*l.* or upwards.

Q. Besides the 100*l.* he repaid to you?

A. Yes.

Q. I suppose you went to York in the summer?

A. Yes.

Q. Perhaps you were at York in the spring, too?

A. I was.

Q. Do you know how much he advanced before the spring assizes?

A. I really do not recollect.

Q. Do you recollect how much he advanced before the summer?

A. I think he advanced above 150*l.*

Q. How much did he advance in October; there were some advances in September, were there not?

A. I think there was.

Q. Do you recollect how much?

A. I really cannot say; but I think somewhere about 100*l.* but I cannot speak to a certainty.

Q. How much in October?

A. I do not recollect.

Q. There was an advance in October?

A. Yes.

Q. Was it less than 100*l.*?

A. I think he paid what was wanted then to Mr. Rushworth himself, and that it did not come under my knowledge.

Q. What did he send up for this trial, now?

A. One hundred and fifty pounds.

Q. What is Mr. Carter's bargain with him?

A. I really do not know.

Q. This is a large sum of money for him to risk?

A. It is; but I do not know what understanding there is between them in the least.

Q. If they succeed, I suppose Mr. Carter is to be paid all his money again?

A. That I cannot answer.

Q. You do not know, whether Mr. Carter is to have any part of the money?

A. I do not.

Q. You were to be repaid; were you to have any thing besides for advancing your money?

A. No; no reward was held out to me in the least.

Q. No inducement of that kind was held out to you?

A. Not the least.

Q. Had you any conversation with Lockwood about this?

A. No; only coming as a witness.

Q. It never happened, that he told you, he thought it was his hand-writing?

A. No; I never heard him make use of that expression, but quite the contrary.

Q. Has anybody else advanced money, besides Carter?

A. Not that I know of.

Q. You are sure you did not advance more than 100*l.*?

A. Yes.

Q. When did you get your money returned?

A. I think it was in June or July 1820, soon after he met with this friend of his, Mr. Carter.

Q. Where does Mr. Carter live?

A. In a place called French's Gardens, just in the neighbourhood of Hull.

Q. In a house of his own?

A. No, in a house he rents; he is a single man, and boards there; he has a good many houses that he lets, but he boards there.

Q. He is a man of property?

A. Yes.

Q. What part of the house has he to himself?

A. Two rooms.

Q. What do you suppose he pays a week for them?

A. I cannot speak to that.

Q. What are they worth?

A. I suppose as he boards, he pays so much for his board, and has those two rooms for himself.

Q. For nothing?

A. No, he pays for them together.

Q. What would he pay for the rooms?

A. He would pay half-a-guinea, most likely, or from that to twelve shillings a week for the rooms.

Mrs. Esther Horner sworn;

Examined by Mr. Brodrick.

Q. Did you in the year 1812, and 1813, keep an inn at Cottingham?

A. Yes.

Q. How far is that from Hull?

A. About five miles.

Q. Did you know Thomas Robinson, of Hull, who is now dead.

A. Yes.

Q. Did he come over to your inn at any time.

A. Yes, many different times.

Q. He came over to sport?

A. Yes, he came over at different times.

Q. How often might he come in a year?

A. Well, I dare say, from one time to another, he was for the length of fifteen weeks, at different times, the latter end of 1812 and 1813.

Q. Had you, during the times he was there, any opportunity of seeing him sign his name?

A. I have seen him write his name very often.

Q. Was there any circumstance occurred that called your attention particularly to the mode of signing his name?

A. Yes, he was particular.

Q. You must not tell me what it was; but that was the case?

A. Yes.

Q. Was it so as to enable you to form a judgment now upon his hand-writing?

A. Yes, I believe it is.

Q. Look at that paper, (Letter B.).

A. I never saw him write in this manner.

Q. In your judgment, is that his writing or not?

A. No, I do not believe it is his writing.

Cross examined by Mr. Tindal.

Q. When did you first see that piece of paper?

A. I saw that piece of paper in York.

Q. When was it?

A. I cannot tell the day of the month.

Q. What year was it in? I do not want the day of the month.

A. In this last year, the year 1821.

Q. The present year, you mean?

A. Yes.

Q. Were you there at the summer assizes?

A. Yes.

Q. Were you there also at the spring assizes?

A. I was there only once.

Q. You were taken over to York before you had seen this paper at all?

A. Yes, I saw it at York.

Q. You were taken as a witness?

A. Yes.

Q. What were you a witness to prove?

A. To speak to the hand-writing of Thomas Robinson.

Q. To say this was not his hand-writing?

A. Not unless I thought so when I came to see it.

Q. Who paid your expences?

A. I cannot say indeed.

Q. Who was the person who put the money into your hand?

A. The expences were paid before I went; I had nothing to pay.

Q. As you have seen him write often, will you look at these two papers; what do you think of that?—[*handing a paper to the witness*].

A. It may be, or it may not be, his writing.

Mr. Justice Bayley. You can form no judgment whether that is his hand-writing, or not?

A. No, I cannot.

Mr. Tindal. Do you believe it to be his hand-writing, or not?

A. I never saw him write much but his name; he used to write his name frequently, very frequently.

Q. Just look at the name to that paper?—[*handing another paper to the witness*].

A. I never saw him write in that way.

Q. You do not believe it to be his hand-writing?

Mr. Brodrick. No? I wish the witnesses own answer to be taken.

Mr. Justice Bayley. That is taken, but I understood her to go further than that; did you say that was not his hand-writing?

A. Yes, my Lord, I said it was not.

Mrs. Mary Milner sworn;

Examined by Mr. Brodrick.

Q. Do you reside at Hull?

A. Yes.

Q. You are a widow?

A. Yes.

Q. Is your brother's name Wallace?

A. Yes.

Q. Were you acquainted with Mr. Thomas Robinson of Hull, who is dead now?

A. Yes.

Q. Were you on terms of intimacy with him and his family?

A. Not with his family; I have known him many years.

Q. Were you in the habit of meeting him at your brother's, Mr. Wallace's?

A. Yes.

Q. Have you had occasion to see him sign his name?

A. Yes.

Q. Frequently?

A. Yes, frequently.

Q. To what?

A. I do not know, indeed; he has got my brother to go out, and get money for checks.

Q. Have you a knowledge of his writing?

A. Yes.

Q. Look at that signature, "Thomas Robinson;" is that his hand-writing?

A. I never saw him write in that way.

Q. According to your belief, is it, or not, his hand-writing?

A. I do not think it is.

Cross-examined by Mr. Serjeant Hullock.

Q. Have you often seen him write?

A. Yes, many times.

Q. Your brother is a gun-maker?

A. Yes, he is.

Q. Was it you who carried in a bill after Mr. Robinson's death, from your brother, on Mr. Robinson?

A. I do not know any thing of it; my brother sent one in, I suppose.

Q. Did you carry it in yourself?

A. No, indeed, I did not.

Q. You did not carry it?

A. No, I am sure I did not.

Q. You quarrelled with Mrs. Robinson?

A. Nothing about the bill.

Q. No, about the payment; she found out that it had been paid before he died, and she found fault with it?

A. No, not with me.

Q. Had you no misunderstanding about it, with Mrs. Robinson?

A. I have seen Mrs. Robinson several times.

Q. You had no quarrel with her about it?

A. No.

Q. You had no acquaintance with Mr. Saxelbye?

A. I have seen him in the market.

Q. How came you to call him an old rogue?

A. Who says I called him an old rogue?

Q. And to say, though your tender heart would

not permit a dog to be hanged, you would not mind seeing him hanged?

A. No, never.

Q. Did you not use words of that kind of him?

A. I am upon my oath; I have used words of many people.

Q. I have no doubt about that; but upon your oath, have you not used expressions of that sort of him?

A. I do not know that ever I have.

Q. Will you swear you never did?

A. I will not swear about it.

Q. Did not you use words of that description to Mr. Charles Frost, of Hull?—That we may have no mistake about it, I will give you your own words, and you will know them again, when you hear them, I am sure; now mind; have you never said, that the prisoner, that is, Mr. Saxelbye, was a wicked old rogue, and that, although you could not yourself bear to see a dog hanged, you could see him hanged with the greatest pleasure in life; now, have you not used words of that description to this gentleman who sits here?

A. I do not know that I have.

Q. Will you swear you have not?

A. I will not swear to it.

Q. Will you swear you did not use those words?

A. I do not recollect it.

Mr. Justice Bayley. Put those three papers into her hand; whose hand-writing is the body of this?

A. My eyes are so bad.

[*The witness examined them.*]

A. I do not think it is Mr. Robinson's.

Q. Look at the others.

A. I do not think that either of them is his.

Q. Just look at that, and tell me whose hand-writing that is? *(one of the deeds).*

A. That is Mr. Robinson's.

Q. Have you seen him sign as that is signed before?

A. I have seen him sign.

Q. Have you seen him sign in the way that that is signed?

A. Yes.

Q. Do you know whose that is? *(the other deed).*

A. I do not think that is like the other.

Mr. Baron Garrow. Do you believe that to be his hand-writing, or not?

Mr. Justice Bayley. From the character of the hand-writing, do you believe it to be his writing, or not?

A. I do not think it is; it is very different from the other.

Q. There is another paper I want to shew you; tell me whether you think that is his hand-writing, or not? *(one of the signatures to the deed).*

A. Yes.

Q. You have no doubt about that, have you?

A. I do not know, I am sure; I think I have a little doubt.

Q. I take for granted you are no relation to Mr. Carter, are you?

A. No.

Q. Nor to Mr. Gooddy?

A. No.

Q. Nor to any of the persons who are connected with this cause?

A. No, not to any one.

Mr. William Wilson sworn;

Examined by Mr. Adolphus.

Q. I understand you are an attorney.

A. Yes.

Q. Were you in partnership with Mr. Galland?

A. Yes, from 1813 to 1816; I was in partnership with him for three years.

Q. Were you in partnership with him during the time the suit was pending in the Commons, respecting the proving the testamentary paper of the late Thomas Robinson?

A. Yes, I was.

Q. Do you recollect the time when the first paper, marked (A.) was sent up to be proved?

A. I believe the suit began in Doctors Commons about May 1815.

Mr. Justice Bayley. What time in May?

A. I am not able to state precisely; either the latter end of May, or the beginning of June.

Mr. Adolphus. While that suit was pending, did Mr. Saxelbye come to your office?

A. Yes, he came many times in the course of the suit, respecting it.

Q. About what time did he first begin to come?

A. That I am not able to state; I had very little to do with the business; I am not able to state with precision when he came first.

Q. I will put you in mind of the stages of the business; do you remember that there was a paper sent up to be be proved, marked (A.)?

A. Yes, but that paper I never saw.

Q. Was there correspondence with your proctor, Mr. Dyke, about it?

A. Yes, there was.

Q. Do you know, that afterwards another paper was sent up, which was marked afterwards (B.)?

A. Yes.

Q. Was it after the first paper was sent up, and before the second, that Mr. Saxelbye began to come to your office?

A Yes, he was at the office between the times.

Q. Between the time that the first and second were sent up?

A. Yes.

Q. Had he been to your office before the first was sent up?

A. Not that I am aware of; I am not aware of such a thing.

Q. How long after the first paper was sent up, do you think it was, before he began to visit at your office?

A. I am not able to state it with any precision.

Q. State the time as nearly as your memory serves you?

A. I think it was about a month or two before I took any notice of it.

Mr. Justice Bayley. Before when?

A. After the first paper was sent up I can only speak generally.

Mr. Adolphus. What business had Mr. Saxelbye at your office; what did he come about?

A. He was one of the witnesses in support of the will—of the testamentary paper.

Q. Of the first or the second?

A. Of both of them I think; but there was no deposition taken until the second one was sent up.

Q. But he was at your office before the second one was sent up?

A. Yes.

Q. Had he been many times at your office before the second paper was sent up?

A. He had been several times; I do not know whether I can undertake to say many.

Q. Did you hear from him any thing of the second paper, when first he used to come to the office?

A. No, I did not; I never heard anything from him concerning the one or the other.

Mr. Justice Bayley. He had a communication with you?

A. No, he had not, my Lord.

Mr. Adolphus. Did he ever talk to you about the suit which was going on in the Commons?

A. No, he did not.

Q. He never said one word to you about the suit?

A. No, he did not; I never had any communication with him upon the subject.

Q. Do you know whether he fetched the letters?

A. He has repeatedly fetched the letters from the Post Office to our office.

Q. What did he do with them?

A. He gave them to me, or Mr. Galland; and I have met him at the Post Office, and have met him returning from the Post Office.

Q. Sometimes he delivered the letters to you, and sometimes to Mr. Galland?

A. Yes, at the office.

Q. Do you know, whether or not he was acquainted with the contents of the letter?

A. No.

Mr. Justice Bayley. How is it possible he should know that, if he never had any communication with him upon the letters?

Mr. Adolphus. He may have brought a letter ready opened.

Mr. Justice Bayley. Did he do that?

A. No, never; it was my custom to go to the Post Office for letters myself, and to take them there myself; but sometimes I have found him at the office, and sometimes have seen him bring in the letters before I have gone.

Mr. Adolphus. Had he any other business at your office but respecting this suit?

A. No, I never did any business for him, nor my partner neither.

Q. He never communicated anything to you about this second paper?

A. No, about neither.

Q. In whose care was this suit?

A. Entirely my partner's.

Q. You knew nothing of the circumstances?

A. No, and for this good reason—

Q. It is not necessary to go into it; is Mr. Galland alive?

A. No, he died the 11th of September.

Mr. Adolphus. That is the case for the prosecution, my Lord.

Mr. Curwood. Mr. Rushworth's name is on the back of the bill; he is not called, my Lord.

Mr. Adolphus. I do not call Mr. Rushworth; Mr. Beverley's name used to be on the back of many indictments; but I do not remember to have seen him called.

Mr. Baron Garrow. You either call him, or do not.

Mr. Adolphus. I do not call him.

Mr. Justice Bayley. Prisoner.—Do you wish to say anything for yourself to the jury? The Evidence on the part of the prosecution is closed; your counsel have the power of examining, on your behalf, such witnesses as they may think fit to call; but if you wish that anything should be stated to the jury on your behalf, you must state it yourself.

Prisoner. Nothing particular, my Lord.

Mr. Justice Bayley. You wish your counsel to examine your witnesses, I suppose.

Prisoner. Yes, my Lord, [*producing a paper.*]

Mr. Justice Bayley. Do not distress yourself at all, the court will wait any time you wish: and if you rather wish that paper should be read for you by the officer of the court, it may be; but if you had

rather it should be read by yourself, you may read it.

Prisoner. I wish it to be read by an officer.

[*The paper was then read by Mr. Shelton, as follows:*]

My Lord,

I must request your indulgent permission to read the short statement I have to offer in my defence; because I am wholly incompetent to address you by speaking, not only from being overpowered by the awful situation in which I stand at this bar, but because it is foreign to all the habits of my life to speak before a public court. My Lord, it is my unhappy lot, at the age of seventy-three years, to be put upon my trial, on an accusation affecting my life and character, before a court and jury, far distant from my own home, and far distant from the place where even the fact, for which I am to answer, is alledged to have been committed; instead of being brought to trial before a jury of my neighbours, who know my conduct and character, and (which would be far more important for my interest) who equally well know the character of my prosecutors. Although I now stand here before the court, a poor miserable old man, accused of a most base offence, I have, in earlier life known the bounties of fortune; I was once in an easy, and, I may say, in a wealthy condition; and, although by the vicissitudes incident to men who are largely engaged in commercial concerns, I am now comparatively poor, yet, until this accusation was raised against me, my moral character was never impeached, and so all my neighbours would have known, without my producing witnesses, if I had been brought to trial before a jury selected from amongst them.

Gentlemen of the Jury: The facts of the case are shortly told. The testator, Mr. Robinson, whose will I am accused of forging, was an intimate friend of mine, and I was in the habits of continual social and friendly intercourse with him. In the early part of the year 1815 he was in declining health, and on Sunday the 30th of April, in that year, I called upon him, as I frequently did; finding his situation, as I thought precarious, and being alone with him in friendly talk, I asked him if he had made any disposition of his property? he said, he had not; but that he wished his mother (as he always called his step-mother) to have it. At the same time he added, he would be glad if I would get a will drawn out for him. As I knew he had a strong aversion to any intercourse with lawyers himself, I promised him I would get it done; and I accordingly wrote down on a slip of paper his directions, by way of instructions, from which to get a will formally drawn up, and that is the paper which has been produced in evidence. I believe I wrote as nearly as possible in the very words he uttered. I then read them to him; he said it was right, and he signed it. I took away the instructions, meaning to get a formal will drawn up from them, and to bring it to him for his signature. At that time I did not consider Mr. Robinson to be in immediate danger, and being particularly occupied the next day (Monday,) I had not an opportunity of getting the will prepared: on the following morning (Tuesday,) I learnt that Mr. Robinson had become delirious, and as he never afterwards recovered from that state of mind, I thought it useless to proceed further; the paper remained unnoticed in my possession, as I considered it a thing of no value, not then knowing or supposing that a little

loose memorandum of that sort could have the force of a formal will.

A day or two after Mr. Robinson's death, another paper was found in his desk, altogether in his own hand-writing, by which it appears he bequeathed to Mrs. Robinson, the purchase money of a house he had then lately sold; it was doubtful, indeed, whether this paper did not make Mrs. Robinson universal legatee; and I understand the opinion of Mr. Hart, the chancery barrister, was, that it bequeathed to her the whole of her son-in-law's property. Under this paper, accordingly, Mrs. Robinson claimed Mr. Robinson's property; but the will was disputed in Doctors Commons by the testator's relatives. On hearing these circumstances, I thought the paper which I had written under his direction might be important, and therefore I sought for it, but was unable for some time to find it. At last, in the month of September following, I happened to discover it among some loose papers, and I immediately gave it over to Mrs. Robinson. Until that suit was instituted, I never conceived that this little slip of paper would in law, amount to a will. Gentlemen, in that suit I was called upon to make a deposition, which I did, stating the same circumstances as I have now stated to you; and although that is all I have had to do with the business, I am now called upon to answer, at the hazard of my life, the charge of myself having forged that will.

Gentlemen, I would ask you what motive I had to be guilty of such a crime; I got no legacy, nor a farthing benefit under the will. There was nothing singular in the conduct of the testator, in leaving his property to his step-mother in preference to his uncles or aunts; for although he was not the actual

son of Mrs. Robinson, yet she was married to his father when he was about a year old; and from that time until the hour of his death (with the exception of a short absence at Shields,) he had continued to live with her. She had, throughout his infancy and youth, been an affectionate mother to him, as he frequently acknowledged to me; and he, apparently, had all the affection of a son towards his mother, for her, insomuch, that it was not until after I had been intimate with him for several years, that I learnt she was only his step-mother; and, indeed, from their conduct to each other, I had, until then, always supposed her to be his natural parent. The paper which was found, altogether in his own handwriting, will sufficiently prove his affection for her. Of his uncle Thomas, he had often said, that he would waste whatever he had; and with respect to his uncle Richard, it was not at all unnatural that he should overlook him entirely; in truth, he had known nothing of that uncle, who had been long absent at Botany Bay, to which place he had been transported for a felony, which he had committed many years before, when his nephew was not more than a year or two old. This uncle, and his attorney, Mr. Rushworth, and other persons disappointed of expected legacies, are now my prosecutors. I can believe the uncle may be disappointed at the loss of his nephew's property, but it is direful revenge to seek the destruction of my life and character, because I was the unfortunate hand to write down his nephew's last wishes.

Gentlemen, you will bear in mind, that this is not the first time the validity of this paper has been questioned; after a long suit in the ecclesiastical court, where all the evidence which my now prosecutors could bring forward to impeach the paper, and shew it to be a forgery, might have been fully

heard, and deliberately considered, that court decreed the paper to be a genuine instrument, and established it as a legal will: nor did it rest there—early in the present year, the prosecutor applied to the ecclesiastical court to re-hear the case; but after hearing all the allegations which could be further adduced, the learned judge refused the application, and confirmed the former sentence, thereby establishing the genuineness of the instrument.

Gentlemen, after an ample investigation of this matter, before a court of competent jurisdiction, I should have thought my prosecutors would have been satisfied of my innocence of the crime which they now alledge against me; but you may judge from their subsequent harassing conduct towards me, whether they are actuated by motives of justice, or of revenge for disappointed expectations. Five years after the will had been established by the decree of the ecclesiastical court, which was in the year 1816, they preferred indictments for perjury against me and Mr. Stephenson, at the York assizes; against me, for making the deposition of the facts under which I wrote the paper; and against Mr. Stephenson, for deposing that he believed the signature to be the testator's handwriting. As these indictments were preferred in my own county, where all the parties were known, myself, the prosecutors, and the witnesses, I readily and cheerfully prepared to meet the charge; but the first delay the prosecutors interposed, was in removing the indictment by *certiorari*, which delayed the trial for the then assizes. In due course, however, they stood for trial at the last York assizes in August, and again we were ready to meet the charge; but on the evening, before the day of trial, the prosecutors withdrew their records. In the

mean time they came to London, and at the last September sessions, they presented a bill for forgery against me before the London grand jury, but this bill was thrown out; again, in the last October sessions, they presented another bill, which is the one I now stand here to answer.

Thus, Gentlemen, I have detailed all the circumstances of this case; and I earnestly, but humbly, entreat you to give them your attentive consideration. Consider the disadvantages I am placed under; called upon to answer so heavy an accusation—at a distance from the place where the fact is alledged to have been committed, and before a jury to whom my former life and character are unknown. Consider, too, that my prosecutors have evaded bringing the matter to trial before a jury of that county, where both they and I are known.—Consider, also, Gentlemen, that the whole business has already been fully canvassed before a court of competent jurisdiction, who have patiently heard all that could be adduced against the paper; and that having established it by their decree, they have thereby, virtually, pronounced, that I am not guilty of the charge imputed to me by this indictment. But, above all, Gentlemen, I pray you to remember the time at which I am called upon to answer for this supposed offence.—It is now near seven years since the date of that transaction; in the course of that time death has removed from my aid three persons, who would have been material witnesses for me on this day—Mrs. Robinson, the mother of the testator, Mrs. Stephenson, and Miss Jane Hewson; the two latter were witnesses in the suit in the ecclesiastical court, and spoke to material facts respecting the testator's intercourse with his mother. With regard to Mrs. Robinson; as it is clear I took nothing by the will, it is insinuated,

that I must have had some bribe from her.—She rests now in the silence of the grave—death has sealed her lips, and she cannot now give testimony in my favour to prove the falseness of that accusation.—So long as she lived, no charge whatever was made against me.

Gentlemen of the Jury: These are the circumstances under which I stand before you; and although I am greatly weighed down and depressed by the magnitude of the accusation, knowing that both my life and character depend upon the issue of your verdict, yet I do not despair—*I have voluntarily surrendered myself to take my trial*—I know and feel my own innocence, and I have the firmest reliance on your justice. But, above all, knowing that there is a God, "who judgeth the world in righteousness;" I cannot believe He will desert me in my old age, and deliver me a victim to the malice of my disappointed enemies.

EVIDENCE FOR THE DEFENCE.

Mr. Richard Ker sworn;

Examined by Mr. Serjeant Hullock.

Q. DO you remember the late Mr. Thomas Robinson, of Hull?

A. Yes.

Q. I believe he was a clerk in the same counting-house as yourself?

A. Yes.

Q. In the counting-house of Messrs. Edward and George Coulson?

A. Yes.

Q. How long ago?

A. From 1802 to 1805.

Q. Was your acquaintance with Mr. Robinson kept up afterwards?

A. No, it ceased with his clerkship.

Q. Were you in the habit of seeing him write during that period?

A. Yes; we sat at the same desk together.

Q. Did you thereby become acquainted with his hand-writing?

A. Yes; I have seen him write very frequently.

Q. Look at that paper, which is marked (A.) [*handing it to the witness,*] whose writing is that?

A. I believe it to be the hand-writing of the said Thomas Robinson.

Q. Look at the signature which is affixed to the paper marked (B.)?

A. I am also of opinion, that that is the writing of Thomas Robinson; to the best of my knowledge and belief it is.

Cross-examined by Mr. Brodrick.

Q. You have no knowledge of the mode of his writing since 1805?

A. No.

Q. You have seen no documents written by him from 1810 to the time of his death?

A. No.

Q. Have the goodness to look at that; first of all before you look at that, had you occasion to see him sign papers much?

A. Yes, very often.

Q. Can you say, whether that is his signature?—[*handing the paper relating to stock to the witness*].

A. I think it is, though it varies from the other; I cannot swear to it.

Q. You cannot swear that that is his signature?

A. No.

Mr. Justice Bayley. It is like his signature?

A. Yes, it is.

[*Two deeds were handed to the witness*].

Mr. Justice Bayley. What do you say to that deed?

A. I consider this deed to be the hand-writing of Thomas Robinson; and this deed too.

Mr. Brodrick. Take that paper which you say you cannot swear is his hand-writing, and the script marked (B.); in your judgment, do those two resemble each other?

A. There does not appear any great resemblance, certainly.

Q. Then what is your judgment as to their having been written by the same person?

A. That I cannot tell; this I am certain is the hand-writing of Thomas Robinson, to the best of my knowledge and belief.

Q. You are speaking of the little paper?

A. Yes.—*the paper marked* (B.)

Q. Do you speak to the signature, or to the whole paper?

A. I speak to the signature only.

Q. Look at the whole paper.

A. That is a different hand-writing entirely.

Q. What is your knowledge and belief respecting the paper you could not swear to?

A. I am still of the same opinion, that I cannot swear to it.

Q. And that the two papers do not resemble each other?

Mr. Justice Bayley. He does not say that.

A. I said I could swear to the other two, but not to that.

Mr. Brodrick. Are they much alike?

A. They do not appear much alike, although there is some degree of resemblance.

Q. In your judgment, do the "T's" resemble each other?

A. The "T's" are quite different.

Q. In your judgment, do the "R's" resemble each other?

A. The R's are different too.

Q. Look at the s, o, n, at the end of each.

A. No.

Q. What letters do resemble each other in your judgment?

A. I cannot point out any particular letter.

Q. You cannot point out in those papers any two letters that resemble each other?

A. No, I speak of the style of the hand-writing.

Q. In your judgment, does the style resemble each other?

A. I have told you before, they are something like, but do not exactly correspond.

Q. And you do not see in the two papers, any two letters which correspond?

A. I have already answered that question.

Mr. Justice Bayley. Do not waste the time of the court by asking the same question a second time; he has already answered that question;—was he a good writer?

A. He wrote a free hand.

Q. Did he always write in the same manner, or did he vary?

A. He varied a good deal.

Q. A good command of pen had he?

A. Yes, he wrote a free hand.

Q. You knew his hand-writing at different times differ?

A. Yes; I apprehend it might differ at different times.

Mr. John Levitt sworn.

Examined by Mr. Curwood.

Q. Are you clerk to the Dock company at Hull?

A. Yes.

Q. Did you know the late Mr. Thomas Robinson in his lifetime?

A. Yes.

Q. How long did you know him?

A. I knew him during the time that he was clerk with Edward and George Coulson.

Q. How long was that.

A. I think it was in the year 1801 to 1804.

Q. Had you frequent opportunities of seeing him write, and becoming acquainted with the character of his hand-writing?

A. Yes.

Q. Look at the paper marked (A.) there, and tell me, whether you believe that to be his hand-writing, or not?

A. I belive it is.

Q. Now look to the signature of the paper marked (B.), and tell me what you think of that?

A. I believe it to be his hand-writing.

Cross-examined by Mr. Adolphus.

Q. When did you say you saw him write last?

A. I cannot say the day.

Q. Have you seen him write at all since he ceased to be clerk at that place?

A. I think not.

Q. How old was he at that time?

A. I think he might be about eighteen years of age.

Q. Do you mean to say he was so old then?

A. I do not know what age he was.

Mr. Justice Bayley. How old was he when he died?

A. About thirty-one.

Mr. Adolphus. Then that would be about the age; you have not seen him write since that time?

A. I have no recollection of it.

Q. Did you see him write in general, or only his signature?

A. In general.

Q. Did you see him write his signature often?

A. Yes.

Q. Tell me if you believe that to be his writing? [*handing the paper to the witness relating to stock*].

A. I do not know; I should rather be inclined to think it was not; it may be; give me leave to look at it again; I think, from the hand-writing, it was his signature; he sometimes wrote in a loose way.

Q. Look at the paper (B.), and see if it is in any degree like that; in the slightest degree like it?

A. Yes; I think that letter "R," and the "b," are like it.

Q. What do you think of the letter "T."

A. The letter "T" is not so much like it.

Q. Is it at all like it?

A. So far as one letter is like another, I should think it not like it.

Q. Is that "T" like the other "T?"

A. No.

Q. Look at the "s, o, n;" is that at all like?

A. The "n" is like.

Q. Look at the last limb of the "n."

A. The last stroke of the "n" I think not like it; but I should think it was his writing.

Q. Do these two resemble each other, or not?

A. They do not altogether resemble each other, but I think it is his writing.

Mr. Justice Bayley. You think both are his writing?

A. I think they are.

Mr. Baron Garrow. If those witnesses who have been examined for the prosecution remain in court, they must abstain from the conduct I have observed with great disapprobation. Three of those wit-

nesses have been making gesticulations, ridiculing the witness now under examination. They may think themselves not unkindly treated, that the court do not interfere more severely; they have been talking the whole time this witness has been under examination; the gentleman who first purchased, I mean in particular. I have never seen more disgraceful conduct than has been pursued by him during this examination.

Mr. John Young sworn.

Examined by Mr. Tindal.

Q. I believe you are are a surgeon at Hull.

A. Yes.

Q. Were you in the habit of attending the late Mr. Robinson professionally?

A. Yes.

Q. How many years had you been concerned, or been in that situa ion?

A. For several years; above eight or ten years, in the family.

Q. Had you, for the last eight or ten years, been in the habit of attending him when he required it?

A. Yes.

Q. What did the family consist of?

A. Mr. and Mrs. Robinson, and Mr. Thomas Robinson, their son.

Q. You are speaking of the late Mr. Robinson?

A. Yes.

Q. When did he die?

A. In May 1815, the late Mr. Thomas Robinson.

Q. At the time of his death, who was living in the house with him?

A. His mother.

Q. How long had you attended him previous to his death?

A. I had attended him at least a fortnight, twice every day, before he died.

Q. Can you undertake to say, you were at the house twice each day for a fortnight?

A. I cannot say exactly to the time of the day; but I am certain I was there twice a day for the time, and more than that, probably; but I cannot speak to that positively.

Q. What was the day on which his disorder took an alarming turn?

A. It took an alarming turn about the 26th or 27th of April.

Q. Was it at that time so alarming as to confine him entirely to the house; or was it only in your view of it, taking an alarming turn?

A. In my view, it was taking an alarming turn.

Mr. Justice Bayley. Was he able to go out after the 26th?

A. Yes, I believe he was out after the 26th.

Mr. Tindal. Do you remember, on Monday the 1st of May, any thing particular taking place?

A. He became delirious.

Mr. Justice Bayley. At what time?

A. Monday afternoon, I am certain.

Mr. Tindal. On the preceding day, Sunday the 30th of April, did you call at the house, or not?

A. Yes, I recollect on that day, I was twice there on the Sunday.

Q. At what part of the day, or at what parts of the day, were you there when you called?

A. It was before twelve o'clock in the morning, one time; and the second time, in the evening.

Q. Are you able to recollect who let you in on those occasions?

A. No, I am not able to recollect that, because I frequently opened the door myself, and walked in when I found the door on the latch.

Q. During the course of his illness, had you any

conversation with him on the subject of the disposal of his property?

A. No further than having recommended him—

Mr. Adolphus. We pursued that subject a good way, and I asked Mr. Martin—

Mr. Justice Bayley. If he said he had made a disposition, that would be evidence.

Mr. Baron Garrow. Or that he had an intention to make a disposition.

Mr. Justice Bayley. A statement that he said he had not.—I doubt whether that would be evidence; because it is a subject on which people so generally mislead.

Mr. Adolphus. I led Mr. Martin in my examination to that point.

Mr. Justice Bayley. And you thought it was not evidence?

Mr. Adolphus. And I think now the same thing, my Lord.

Mr. Justice Bayley. If he had said, I have given it to my mother, that would be evidence.

Mr. Baron Garrow. Or if he had said, I have sent for an attorney; he is not come, and I wish to make my will; is not that evidence to shew the probability one way, or the improbability the other?

Mr. Tindal. Had you at all apprized him of his situation?

A. I had, in an indirect way then. I intimated it was always right to have his affairs settled.

Q. Was this a short time prior, or about the 1st of May?

A. A few days before that.

Q. When you have said that to him, what answer has he made?

A. He said he should do so.

Q. Did he say how?

A. No; the nature of the distribution he never

mentioned to me, and I could not take the liberty to ask.

Q. Did he state any thing to you at any time about the mode in which he meant to dispose of his property, or in which he would not dispose of it?

Mr. Justice Bayley. We have already got the paper (A).

A. He never did directly do so to me.

Mr. Tindal. Are you about to state any thing further upon that?

A. No, I am not.

Q. During the time you had known him, had you frequently seen him write?

A. Yes.

Q. Have you seen him write so often as to be able to form an opinion upon his hand-writing?

A. Upon the general hand-writing.

Q. You see a paper there marked (B.); look at the signature to that, and tell me in your judgment whose writing you believe that to be.

A. I believe that to be his hand-writing.

Cross-examined by Mr. Brodrick.

Q. You say you attended nearly daily about twice a day;—do you remember on Sunday the 30th of April being there?

A. Yes.

Q. How many times?

A. Twice.

Q. At what times in the day?

A. Before twelve, and in the evening.

Q. What time in the evening?

A. In the evening, it might be, between seven and nine.

Q. And you had for many preceding days attended him twice a day?

A. Yes.

Q. On any of those occasions did you ever see the prisoner at his house?

A. Yes.

Q. When?

A. I do not recollect, because my visits were not long at a time, and I did not notice particularly who was there; my time was spent with the patient?

Q. Have you, or have you not, sworn you had no recollection of having seen him at the house of Mr. Robinson, in his illness. I will give you the words again—Have you, or have you not, sworn that you had no recollection—

Mr. Justice Bayley. You do not deal fairly by this witness; you say, did you ever see the prisoner at his house; and then you say, did you see him there in his illness.

Mr. Brodrick. He says, he cannot tell the time. —Can you tell me the time you saw him?

A. No.

Q. Was it before or during the illness?

A. During the illness.

Q. Have you not sworn, you had no recollection of having seen Saxelbye at the deceased's house during his illness?

A. I do not understand the question.

Q. Have you not sworn that in any deposition that you have made—Were you examined at Doctors Commons touching the will?

A. Yes, I was.

Q. In any deposition you ever made there, did you swear that?

A. I have not the deposition before me; but if I swore it, I believe I was correct at the time; it is several years since it happened.

Q. And you were more likely to be correct then

than now, I take for granted, being much nearer the time. Is not that so?

A. I believe so; I did not know you waited for any answer.

Q. Do you know whether that is or is not Mr. Robinson's hand-writing?—[*producing the paper shewn to the last witness relating to stock*].

A. I think it is like it.

Q. Do you consider that to resemble the signature to the paper marked (B.)?

A. Yes, I consider there is a resemblance; in my mind there is.

Q. Do you see any difference in any particular letter?

A. I am not accustomed to examine so many letters, as that I can say they are exactly alike.

Q. Looking at the two, you can say whether there is any mark different in the letters?

A. There is a little difference in some of the letters, but it is such a difference as I have frequently made in writing my own name.

Mr. Justice Bayley. Look at the paper marked (A.) and tell me whether you believe that that is his hand-writing; I believe that has been proved over and over again?

A. Yes, I think that is his hand-writing.

Edward Baron sworn.

Mr. Adolphus. Are you a relation of Mrs. Robinson?

A. I married her sister.

Q. Are you a legatee under her will?

A. No, I am not.

Q. Is your wife?

A. Yes.

Q. Under the will of Mrs. Robinson?

A. Of Mrs. Robinson.

Mr. Adolphus. The reversionary legatee under this will.

Examined by Mr. Park.

Q. Were you well acquainted with the testator, Mr. Robinson?

A. Yes.

Q. How long were you acquainted with him?

A. Upwards of twenty years.

Q. Were you acquainted with his hand-writing?

A. Yes.

Q. Will you look at the paper (A.); whose hand-writing is that?

A. It is Mr. Robinson's; I have not the least doubt of it.

Q. Look to the signature of the paper (B.); whose hand-writing is that?

A. The same.

Q. Were you in the habit of visiting at Mr. Robinson's?

A. Yes.

Q. Have you seen Mr. Robinson and his mother-in-law together?

A. Frequently.

Q. On what terms were they?

A. Very good terms.

Cross-examined by Mr. Adolphus.

Q. You say your wife derives property under the will of the late Mrs. Robinson?

A. Yes.

Q. Is that part of the property which came to her from the will of her son-in-law?

A. I cannot say.

Q. Do you know that she had any other property?

A. I do not know; she had an annuity under her husband's will; nothing considerable.

Q. That would die with her, of course?

A. Yes.

Q. Do you know of any other property that she had?

A. No.

Q. Has the legacy been paid under the will to your wife?

A. She was the residuary legatee; she administered.

Q. You say you knew Mr. and Mrs. Robinson living together, and that they were upon good terms; I do not ask you to every little difference that must happen with all persons who live together, but do not you know they were on very bad terms?

A. I do not know it.

Q. Did you visit them much?

A. Yes.

Q. During the latter part of his lifetime do you mean?

A. Yes.

Q. What do you call much?

A. I might go in two or three times a day.

Q. One day with another?

A. Yes; I lived within a few yards of the house.

Q. Did you often meet Mr. Saxelbye there?

A. No.

Q. Did you ever meet him there?

A. Not unless I was appointed to meet him.

Q. During the last six months of Mr. Robinson's life, did you meet him there once?

A. I do not recollect that I did.

Q. Were you ever there on a Sunday?

A. No, I did not make a practice of going on a Sunday.

Q. Then you meant to make that exception?

A. Yes; I might occasionally go on a Sunday.

Q. But you cannot say, that for six months before he died, you saw Mr. Saxelbye there at all?

A. No.

Q. Had you any connexion with Mr. Robinson before you married a relation.

A. Yes.

Q. How often have you seen him write?

A. Hundreds of times; I lodged with the family ten years before I married.

Q. Therefore you saw him write very frequently?

A. Yes.

Mr. Justice Bayley. Did you ever meet Mr. Saxelbye at Mr. Robinson's before Mr. Robinson died?

A. Not exactly, unless I was there by appointment.

Q. You have occasionally seen Mr. Saxelbye there?

A. Yes.

Q. At dinner?

A. Yes; I have frequently heard Mr. Robinson say Mr. Saxelbye had been there about the price of lead; he was his agent and broker.

Q. And you have seen him dining there?

A. Yes.

Mrs. Elizabeth Phillipson sworn.

Examined by Mr. Serjeant Hullock.

Q. Were you ever a servant in Mr. Robinson's family?

A. Yes, in Mr. Robinson's first wife's time.

Q. That was the mother of the late Mr. Robinson?

A. Yes.

Q. How long did you reside with them?

A. I cannot exactly tell, about fourteen years.

Q. How long is it since you left them?

A. It is six or seven-and-twenty years, I think.

Q. After you left the family you occasionally visited them, to see how they were?

A. Yes, I always visited them; I had a general invitation.

Q. Did you avail yourself of it, and go there frequently?

A. Yes.

Q. Did you continue to visit there down to the time of Mr. Robinson's death?

A. Yes.

Mr. Justice Bayley. Down to the time of the son's death?

A. Yes.

Mr. Serjeant Hullock. Do you remember that time, when it happened?

A. Yes.

Q. Do you remember the time when he first became seriously ill; do you remember the day?

A. Very well.

Q. What day of the week was it?

A. It was on Tuesday; on Tuesday morning I found him very ill.

Q. Were you sent for?

A. No.

Q. What time of the day was it you went?

A. I went in the morning.

Q. Do you remember, whether you were there on the Sunday before, the 30th of April?

A. Yes, very well.

Q. About what time of the day was it that you went there on the Sunday?

A. I cannot tell to five minutes; a quarter or twenty minutes past four.

Q. Who did you find there?

A. I went through the garden, and Mrs. Robinson came to the door.

Q. She let you in?

A. Yes.

Q. Who did you find in the house when you got in?

A. Mr. Robinson, and no one else.

Q. How long did you continue there?

A. Till about half-past ten at night.

Q. Did you know the servant, Mary Bailey?

A. Yes.

Q. Was she in the house when you went?

A. No.

Q. She was out when you went?

A. Yes.

Q. Did she return whilst you were in the House?

A. Yes.

Mr. Justice Bayley. About what time?

A. I cannot exactly say; Mrs. Robinson was uneasy about her not coming.

Mr. Serjeant Hullock. That drew your attention to it?

A. Yes.

Q. Do you remember her returning?

A. Yes; I let her in myself.

Mr. Justice Bayley. About what time?

A. I cannot tell within a few minutes, it was about five.

Mr. Serjeant Hullock. Was Saxelbye there at the time?

A. No.

Q. Was Mr. Lockwood there?

A. I did not see him while I was there, and I was not out of the house.

Q. Was Mr. Stephenson there?

A. I did not see him.

Q. Do you remember any person bringing any celery to the house?

A. Yes.

Q. What was done with it; was it dressed for Mr. Robinson?

A. Yes.

Q. By whom?

A. By myself.

Q. Was it dressed in the kitchen?

A. Yes; he was uneasy for its being dressed, as the servant was not within, and I told him I would do it.

Q. And, in fact, you did so?

A. I did.

Q. About what time might that celery come, and at what time did you dress it?

A. I had not been in five minutes when it came; I cannot tell within a minute.

Q. And you proceeded to dress it for him?

A. Yes.

Q. You did not see Mr. Saxelbye, nor hear tell of him.

A. Yes, Mr. Robinson told me to fasten the door, for that he had had Mr. Saxelbye, and he did not wish to see any more acquaintance.

Q. Was that soon after you went in?

A. Yes, as soon as I had got in, before I had got my things off.

Q. Do you know Mr. Young, the surgeon?

A. Yes.

Q. Was he there whilst you were in the house?

A. Yes.

Q. Do you remember his coming?

A. Yes.

Q. And his going away again?

A. Yes.

Q. What time was it, do you remember, that he came?

A. I cannot exactly say, between eight and nine.

Q. You say that Mary Bailey was let in by you about five o'clock?

A. Yes; I let her in myself.

Q. Do you know who let Mr. Young in?

A. She let him in; I did not, because I was in the room.

Q. Was the door fastened after Mary Bailey came in?

A. I told her to fasten it.

Q. You did not do it?

A. No.

Q. When Mr. Young came in you were sitting with Mr. Robinson?

A. Yes.

Q. Did Mary Bailey let Mr. Young in?

A. I do not know.

Q. Do you know who let him out when he went away?

A. I cannot remember that; I know the bell was rung for the door to be opened; I was up stairs.

Q. You say you were in the habit of going to this house to visit the family?

A. Yes.

Q. Generally speaking, on what terms did Mrs. Robinson and her son live?

A. They lived, when he was himself, very comfortable; but not when he had wine.

Q. By saying when he was not himself, do you mean when he had had too much liquor?

A. Aye, when he was in liquor.

Q. And when he was out of himself sometimes they squabbled?

A. Yes.

Q. Probably because he was in that state, she quarrelled with him?

A. Very often; she used to threaten him, and say, "Thomas, it will ruin you."

Q. When they quarrelled upon those occasions, was it because he had got too much wine?

A. Yes.

Q. Who paid the housekeeping?

A. Mrs. Robinson.

Q. Do you know whether he ever paid her any thing for his board and lodging?

A. No; I have heard her repeatedly say, she owed him three years board.

Q. You never heard him say any thing about it?

A. Yes; she used to say, "Thomas, you pay every body but me;" and he used to say, "Well, mother, I shall give you what I have when I die."

Q. You remember the time of his death?

A. Yes.

Q. In what state was his general health?

A. He was very poorly all that winter; he had been very poorly six months before that.

Q. Do you know whether he had made any disposition of his property before this time?

A. No; I never heard him say any thing more than I have stated.

Cross-examined by Mr. Adolphus.

Q. What relation were you to Mrs. Robinson?

A. None.

Q. Has she left you any thing in her will?

A. I have nothing left in the will; I have got it.

Q. You had a legacy, and you have received it.

A. Yes.

Mr. Justice Bayley. What was the amount of it?

Mr. Serjeant Hullock. Twenty pounds?

A. Yes.

Mr. Adolphus. Did you dine there upon that Sunday?

A. No.

Q. You went there first at twenty minutes past four in the afternoon, or thereabouts?

A. Yes.

Q. What were they doing then in the family; dining, or what?

A. They were not doing any thing.

Q. What was their dinner-hour?

A. One, on a Sunday.

Q. What hour did they take tea?

A. Generally at five, on a Sunday.

Q. Did they take tea at five on that Sunday?

A. It had been a few minutes after five that evening, because the servant was late when she came in.

Q. What did you do to this celery?

A. I dressed it.

Q. How dressed it; with vinegar, or boil it?

A. I washed it, and took it into the room.

Q. Did he eat it then?

A. Yes.

Q. Between his dinner and tea?

A. Yes.

Q. Was it ate merely as it was?

A. Yes.

Q. After his dinner, and before his tea?

A. Yes.

Q. And he was very ill then, was not he?

A. Yes.

Q. How many heads of celery did he eat?

A. I do not know.

Q. How many were there?

A. I cannot recollect that; I recollect the washing of it, and taking it in.

Q. Then you can recollect whether there was one head, or more than one?

A. I cannot; I recollect there was a large plate of it, but not how many heads.

Q. Did you cut it up?

A. No.

Q. Cannot you recollect whether there was one head, or more, for this gentleman, who was ill, to eat between dinner and tea?

A. I cut the bad out of it; it was very indifferent.

Q. Was the maid returned, or not, before Doctor Young came?

A. She was returned; Mr. Young came late in the evening.

Q. How late did he come?

A. Half after eight; between eight and nine.

Q. Who opened the door to him; the servant?

A. I did not open it.

Q. Do you know whether Mary Bailey opened it, or not?

A. No.

Q. Or whether he opened it himself?

A. No. When he came in I left the room, and went up stairs.

Q Was there any wine upon the table when you came in?

A. I do not remember whether there was or not.

Q. Was anybody else dining there, besides him and his mother?

A. I did not see anybody else; I was not there at the dinner hour.

Q. Did anybody else drink tea there, besides them and you?

A. No.

Q. When had you been there last, before that Sunday?

A. I had been every night all the week; I was there almost every night.

Q. Was he confined to the house?

A. He was poorly; he could not go out then.

Q. Do you mean, he could not go out at all?

A. He could not walk very well.

Q. But he did not go out?

A. No, he was very poorly; I was not there every day; he might walk out in the morning.

Q. The night before, (Saturday), what time did you go then?

A. Between seven and eight.

Q. How often were you in the house in the course of Saturday?

A. Not at all till Saturday night.

Q. Was anybody there then?

A. I do not remember.

Q. Were you there the Sunday before?

A. I hardly every passed a Sunday without being there. If I did not go to dine, I went to drink tea.

Q. Was anybody there the Sunday before?

A. Yes, I think Miss Jane Hewson was there.

Q. Is there a Miss Ann Hewson, also?

A. Yes.

Q. Was Miss Ann Hewson there the Sunday I am speaking of, the 30th?

A. Yes, she dined there; I did not see her; she was gone before I came.

Q. That you learnt of the family, I suppose?

A. Yes.

Q. Did you know Mr. Lockwood before?

A. Yes.

Q. Had you often seen him him at the house?

A. Very often.

Q. Can you take upon yourself to swear that he was not there on that Sunday, the 30th of April?

A. I can swear I never saw him while I was there.

Q. Might it not be as late at six o'clock when you came?

A. No, that I am sure it was not.

Q. Were Mr. and Mrs. Robinson in the room together?

A. Yes.

Q. Mr. Robinson was not confined to another room?

A. He was not confined.

Q. Was he not in another room that Sunday?

A. I did not see him.

Q. While you were in the front room, was he not out of it?

A. No, he never was.

Re-examined by Mr. Serjeant Hullock.

Q. You know Mr. Saxelbye, the prisoner?

A. Yes.

Q. Did you ever see him at Mr. Robinson's?

A. Frequently.

Q. Did you ever see him there at dinner, or tea?

A. At different times.

Q. For what length of time had you been in the habit of seeing him there previous to the death of Mr. Robinson?

A. One Sunday him and his two little boys came about a month before his death, and stayed till six o'clock; and he has frequently come.

Q. Have you seen him and Mr. Robinson together?

A. Yes, at different times, talking of different business; I have been in the room.

Mr. Adolphus. With respect to Saxelbye being there, you say you saw him there one day with his two little boys; how long was that before Mr. Robinson died?

Mr. Justice Bayley. About a month.

Mr. Adolphus. Will you swear that was the time?

A. I cannot swear to the time.

Q. But that was the last time you saw him there before Mr. Robinson died?

A. Oh, no; I have seen him there at different times.

Q. Have you seen him there on Sundays or week days?

A. Both.

Q. You say you did not see him there the Sunday you were there last?

A. No.

Q. The Sunday before?

A. No.

Q. Did you see him there the Sunday before that?

A. No; I might see him three weeks before.

Q. Did you see him every Sunday?

A. No.

Q. You used to be there of a Sunday pretty generally?

A. Yes.

Q. Did you see him there frequently on Sunday?

A. Frequently he has called as he went to church; sometimes he has stopped till the afternoon.

Q. Did he call on Sunday after three?

A. I have seen him so many times, I cannot tell.

Mrs. Fanny Baron sworn.

Examined by Mr. Curwood.

Q. I believe you are a sister of the late Mrs. Robinson?

A. I am.

Q. Of course you knew Mr. Thomas Robinson?

A. I did.

Q. From the time of his infancy to his death,

with little intermission, had he always lived with his mother-in-law?

A. Yes.

Mr. Justice Bayley. He lived there generally?

A. Yes; except for a little time, when he was at Newcastle.

Q. Or Shields?

A. Yes.

Mr. Curwood. Had you an opportunity of knowing the terms on which they lived together?

A. Yes; I was very frequently in the house; it was next to my own.

Q. Did they live on terms of friendship with each other?

A. Yes, they did, excepting when he got a little wine.

Q. We have heard, that some time before his death he was indisposed?

A. Yes, he was.

Q. Do you recollect any short time before his death, his making any declaration how he should dispose of his property?

Mr. Adolphus. I take it to be quite competent for them to shew the terms of affection, or otherwise, on which he was living with his mother, but any particular conversation, or attention or respect to her, I apprehend is not evidence; I could not offer evidence the other way, though I had many temptations to do it.

Mr. Justice Bayley. I am rather disposed to think it would be evidence.

Mr. Curwood. I withdraw the question.

Mr. Justice Bayley. It being clear she was considered an object of his bounty.

Mr. Adolphus. That would have been an answer to any objection of mine.

Mr. Justice Bayley. It seems to me, that the jury have paid so much attention, that you will not feel it necessary to take up their time much longer.

Mr. Baron Garrow. If by this time the jury have not formed a strong opinion, that added, will hardly produce much effect; but I have no doubt about the admissibility of the evidence, if Mr. Curwood thought fit to press it.

Mr. Curwood. My Lord, I know my ground. Have you had opportunities of seeing his hand-writing?

A. Yes; I have been in the habit of receiving letters and notes from Mr. Thomas Robinson.

Q. For a long period?

A. Ever after he was a boy.

Q. Look at that paper, marked (A.), and tell me what you believe about that hand-writing.

A. It resembles the hand-writing of Thomas Robinson.

Q. Does it so resemble it, that you believe it to be his hand-writing?

A. Yes.

Q. Look at the paper marked (B.), what do you believe about that?

A. It appears to me to be the hand-writing of Thomas Robinson.

Q. You believe it to be his hand-writing?

A. I do, from what knowledge I have of his hand-writing.

Mr. Brodrick. Are you the residuary legatee under Mrs. Robinson's will?

A. Yes, I administered to Mrs. Robinson's will.

Mr. Justice Bayley. You have the residue of Mrs. Robinson's estate?

A. Yes.

Mr. Curwood. She left her property to pretty nearly all her relations?

A. Yes.

Miss Hannah Hewson sworn.

Examined by Mr. Tindal.

Q. I believe you are the sister of the late Mr. Robinson?

A. I am.

Q. Probably you recollect the day on which he was taken delirious?

A. I do.

Q. The day before that, I believe, was Sunday the 30th of April; were you at the house?

A. I was.

Mr. Justice Bayley. Then it was on the Monday he was taken ill?

A. It was on Monday night.

Mr. Tindal. What time did you go there?

A. About one o'clock.

Q. Had you been invited there before?

A. I had a general invitation.

Q. For what purpose did you go there at one o'clock?

A. To dine.

Q. At the time you got there, who did you find there?

A. Not any one, but Mr. Robinson and his mother.

Q. How long did you remain there?

A. Until three o'clock, about three.

Q. Whilst you were there, after the dinner, did anybody come in; did a person of the name of Stephenson come in?

A. Yes.

Q. I believe he was the nephew of the late Mr. Robinson?

A. He was.

Q. Did he stay there long?

A. Perhaps half an hour, or rather more.

Q. Then he went away?

A. I am not certain exactly to the time.

Q. Do you recollect any conversation passing between Mr. Robinson and Mr. Stephenson, about some celery?

A. Oh, yes.

Q. What was done about it?

A. Mr. Robinson regretted much that he had not had more celery at dinner, which he was partial to; and Mr. Stephenson did not say he would procure him some; but he went away, I believe, with that intent.

Q. Was there, in a short time after, any celery brought?

A. I was not there.

Q. Before you went away, do you recollect any body else coming?

A. Yes.

Q. Who was that?

A. Mr. Saxelbye.

Q. What time did he come?

A. About three o'clock.

Q. Who let him in?

A. I did.

Q. Was the door at that time fastened, or was it only on the latch?

A. I cannot exactly say that; I went to open the door, seeing Mr. Saxelbye coming.

Q. You saw him through the window?

A. I did.

Q. When you opened the door, where did he go to.

A. Into the parlour.

Q. Was Mr. Robinson there?

A. He was sitting by the fire.

Q. How long before you left the house was this?

A. Not many minutes.

Q. When you left the house, did you leave them together?

A. Yes.

Q. During the time that you were there, did you see Mr. Lockwood?

A. No.

Q. Was Mr. Robinson, during the time of your being there, in this front parlour, that you have described?

A. Yes.

Q. And you did not see Mr. Lockwood with him?

A. No.

Q. Have you often seen Mr. Robinson write?

A. Yes.

Q. Look at that paper, letter (A.); whose handwriting do you believe that to be?

A. Mr. Robinson's.

Q. Now look at the other paper, marked (B.), and look to the signature, and tell me whose handwriting you believe that to be?

A. Thomas Robinson's.

Cross-examined by Mr. Adolphus.

Q. You dined there that day, you say?

A. I did.

Q. How long had you been there before dinner?

A. I did not go in till they sent to say dinner was ready.

Q. Now you are quite sure in this you are speaking of Sunday the 30th of April?

A. Yes, I am.

Q. The Sunday before he was taken with the delirious illness?

A. Yes.

Q. And you are quite sure Mr. Lockwood did not dine there, and was not there that day?

A. I am.

Q. Did you see the servant girl at all?

A. Yes.

Q. Did she wait upon you at dinner?

A. Yes, Mrs. Robinson had got only one servant.

Q. What time was dinner over?

A. About two.

Q. I did not quite catch what time you went away.

A. About three.

Q. Then you know nothing that happened after that?

A. No.

Q. But Mr. Saxelbye was just come as you went away?

A. Yes, I let Mr. Saxelbye in.

Q. As you were going away?

A. No, I was in the window, and saw him coming, and I went and let him in, and then went away; I was wanting to go home.

Mr. Matthew Hewson Stephenson sworn.

Examined by Mr. Park.

Q. What are you?

A. A clerk of His Majesty's customs at Hull.

Q. Were you acquainted with the late Mr. Robinson?

A. I was.

Q. Were you at his house on the 30th of April, in the year 1815?

A. I was.

Q. At what time in the day did you go there?

A. From about half after one to a quarter to two; thereabouts, as near as I can tell.

Q. Where did you find Mr. Robinson at that time?

A. In the front sitting room on the first floor.

Q. Who was with them?

A. His mother, and Miss Anna Hewson.

Q. How long did you stay with him?

A. Until about half after two.

Q. Did you see Mr. Lockwood there during that time?

A. No.

Q. Was there anything said about celery then?

A. There was.

Q. Did you get some celery for the testator?

A. I went home for the purpose and procured some, and sent it to his house.

Q. You say you knew Mr. Robinson very well?

A. Yes.

Q. Have you seen him write?

A. I have.

Q. Often?

A. Often.

Q. Look at this paper, letter (A); in whose hand-writing is that?

A. I believe it to be Mr. Thomas Robinson's.

Q. Look to the signature to the paper marked (B).

A. I believe that to be the same.

(*Cross-examined by Mr. Adolphus.*)

Q. Was that the way in which Mr. Robinson usually signed his name, or did he sign it differently?

A. I have seen him sign it different ways.

Q. As a signature?

A. As a signature.

Q. Have you seen him sign many things?

A. Many.

Q. He used to sign his name, was a "T" and a "R" differently formed.

A. The scroll of the "T" different.

Q. And the "R" more scattered?

A. Not very materially.

Q. Have you seen him often sign like that?

A. Yes, I have.

Q. What have you seen him sign like that?

A. I cannot say now, but I have seen him sign many things.

Q. Receipts or letters, or what?

A. I cannot charge my memory at present.

Mrs. Ann Beach, sworn.

Examined by Mr. Curwood.

Q. Were you acquainted with the late Mr. and Mrs. Robinson?

A. Yes.

Q. Did you know the prisoner, Mr. Saxelbye?

A. Yes.

Q. Do you know whether he was intimate with Mr. Robinson?

A. Yes.

Q. Have you seen him often there?

A. I have seen him there several times, once in particular he was there when I went there.

Q. Was he intimate with Mr. Robinson?

A. Yes, he was.

(Joseph Hume, Esq. was called, but did not answer).

Mr. Curwood. We understand he and Mr. Rice are in the Common Pleas.

Mr. Serjeant Hullock. We propose calling a few witnesses to character.

Mr. Justice Bayley. You are quite right.

Mr. Samuel Poyser sworn.

Examined by Mr. Serjeant Hullock.

Q. Where do you live?

A. At Derby.

Q. How long have you known Mr. Saxelbye, the prisoner?

A. Upwards of twenty years.

Q. He lived at that time in that town.

A. He did.

Q. From your knowledge of him, what character did he bear at that time; and in your judgment what character did he deserve?

A. I always considered him an honest man, highly respected at that time, or rather about 1805 to 1808. I had always considerable transactions with him, bought goods of him to a very considerable amount, during which we always found him a strictly honourable man in all dealings we had with him. Shortly after he left Derby, and went to Hull; and from the year 1811, to the year 1816, he was employed by us as an agent in the purchasing of goods for us, which amounted, I believe, during that time, to about 18,000*l.*

Q. You are in the house of Cox, Poyser and Co. of Derby, white lead manufacturers.

A. Yes.

Mr. Justice Bayley. From 1811 to 1816 what was his general character?

A. I always considered him a very honest upright man.

Q. Did any thing ever happen to make you change your opinion?

A. Nothing whatever; had Mr. Saxelbye continued in Hull, and the market would have answered our purpose, we should certainly have continued him in the same capacity that he had acted for us.

Mr. Thomas English sworn.

Examined by Mr. Curwood.

Q. Where do you reside?

A. At Hull.

Mr. Justice Bayley. What are you in Hull?

A. I am librarian to the Hull subscription library.

Mr. Curwood. Do you come on purpose to speak to the prisoner's character?

A. Yes.

Q. How long have you known him?

A. About ten years.

Q. What has been his character for honesty during that time?

A. A perfectly honest man.

Mr. Justice Bayley. Has he been respected by the respectable people in the neighbourhood?

A. Highly so.

Mr. Justice Bayley retired for a short period.

Mr. Richard Ellis sworn.

Examined by Mr. Curwood.

Q. What are you?

A. Clerk to the governor and guardians of the poor at Hull, and county treasurer likewise.

Q. How long have you known Mr. Saxelbye?

Mr. Baron Garrow. After the evidence from one of the first witnesses for the prosecution, a man of the highest respectability, after what you have had from the rest of your witnesses, do you think it necessary to go on; perhaps the jury will intimate whether it is necessary to go on; they may be satisfied.

Mr. Curwood. My opinion was, that it was not necessary.

Mr. Baron Garrow. Gentlemen, I observed, when my learned brother withdrew just now, you had some consultation; perhaps the result may be, that you have something to state to him?

[*The Jury consulted.*]

A Juryman. The jury wish to see the handwriting.

Mr. Justice Bayley. Let me tell you this;—do not stop the case, if any of you have the least particle of doubt.

Another Juryman. We do not wish to see it.

Foreman of the Jury. My Lord, our minds are pretty well made up on the business.

Mr. Justice Bayley. Are they entirely made up, or do not let me stop the case.

A Juryman. We are perfectly satisfied.

Mr. Justice Bayley. I do not think it at all improbable your minds should be made up on the subject; because, during the time you have been confined, I have cast my eye over the minutes I made of the speech of Mr. Adolphus, and it strikes me, there is scarcely one of his propositions on which he meant to infer guilt in the prisoner, in which the evidence has not entirely failed him, or been satisfactorily contradicted by evidence on the part of the prisoner. Gentlemen, there was an intimation, which at the time it was opened by him struck me as a very important feature in the case, which was this;—that there was a paper (A.) found after some time, during which it was supposed Mr. Robinson had died intestate; now it does not appear that there was any interval in which it was supposed there was not any testamentary paper; the paper (A.) was produced, and then paper (B.) was produced by Mr. Saxelbye; though paper (A.) was propounded in the Ecclesiastical court as a will, the court had intimated no opinion upon paper (A.); the time for the court to intimate any opinion upon that subject had not arrived, and it was on a subsequent discovery of paper (B.) that paper (A.) was withdrawn from the consideration of the court; it was postponed, so that if they failed on paper (B.) they might again resort to paper (A.); and I am not at all surprized at that, which for a moment might surprize certain persons not acquainted with subjects of this kind; that paper (B.) was not produced at an earlier period, because I can conceive, without the least hesitation, that the prisoner had that im-

pression which his account to day insinuates; namely, that having taken that originally, as instructions, and instructions only, on which a subsequent will was to be prepared, he might not know, and probably did not know, that that would be considered, in a court of probate, as a valid testamentary paper. If I had not occasionally, in my professional habits, been where wills are made the subject of consideration, I profess for one, that it would not have occurred to me, that that instrument had been put into such a position, that it could properly be treated as a testamentary paper; and if I might have been ignorant on that subject, it is not unlikely that a person in the situation of the prisoner, with less information, should have the same impression on his mind also.

There was another observation also, that in his deposition he stated that he went to the deceased's, as was usual with him; that he went between two and three, and staid with him for three quarters of an hour. They say we shall contradict that in all particulars: in the first place, that it was not his usual habit; next, that Mr. Robinson was well, and so well that it was not likely he would make the subject of the disposition of his affairs, matter of conversation; and that, on the 1st of May he executed a deed, in a very good hand. Now upon that, was he well on the 30th of April? you have the testimony of Mr. Young in that particular, who says, so far from his being well, he is quite sure, on the 30th of April he had been ill for some days; that he went to him that day before twelve; and again in the evening; and therefore, that observation also fails.

Then they said, that they should shew that Mr. Saxelbye was, while the paper (A.) was propounded, and relied on in the Court of Probate,

continually at the office of Messrs. Galland and Wilson; and therefore, he must have known, that paper (A.) was the paper on which they relied; and therefore, that paper (B.) must have been a subsequent fabrication. Mr. Wilson is the only witness on that subject; and he says, that though from time to time, Mr. Saxelbye was there, he never had any conversation with him upon the subject; and he does not know that ever he was there, till after paper (A.) was propounded. In the interval, between propounding that and paper (B.), Mr. Saxelbye must necessarily make communication on the subject; and where so natural to go to as to Messrs. Galland and Wilson, who were the agents for Mrs. Robinson; and that makes another observation. We are now in the year 1821; this was brought forward in 1815. Time has swept off, among others, Mr. Galland, and he could have told you what passed between Mr. Saxelbye and him, and when the first communication between them was made. I have thought it right, briefly to bring these particulars to your observation, not meaning to insinuate that the conclusion to which you appear to me to have come, is not the right conclusion; it is, in reality, the conclusion to which I thought you must of necessity come, as soon as I had heard Mr. Lockwood.

I thought that this was a case of such high importance to the prisoner at the bar, where not only his life was at stake, but where his character was so deeply implicated in this transaction, that I should have been extremely sorry, by any intervention or observation of mine, to stop the case from having its consideration exercised on it by you, after every witness who could be called for the prosecution, had been called and sifted; and the different witnesses whom the prisoner's counsel might think proper to call on his behalf, should be called and

examined; and I hope your verdict is, as I intended; that he should go out of Court, not merely with the idea of having escaped from this prosecution, but of having been acquitted under such circumstances as may enable him again to hold the same situation in society, which up to this time he has done.

Foreman of the Jury. My Lord, that is the determination of the jury.

The Jury immediately pronounced the Prisoner—Not Guilty.

Mr. Justice Bayley. Let him be discharged.

Mr. Shelton. There is an indictment against him for perjury.

Mr. Baron Garrow. Is it intended to be proceeded in?

Mr. Brodrick. I have no instructions, my Lord.

Mr. Baron Garrow. The Court wish to know, whether it is intended to be proceeded in; those who preferred the indictment know that, and are capable of answering the question. Mr. Shelton, Is the prisoner entitled to demand to be now tried upon that indictment?

Mr. Shelton. He is not; he has not been in confinement long enough.

Mr. Baron Garrow. I dare say, gentlemen, you will not begrudge your time; I will stop here till the next day, if it is intended to try the next indictment.

A Juryman. Certainly.

Mr. Justice Bayley. Who is the prosecutor?

Mr. Baron Garrow. What are the names on the back of the indictment?

Mr. Shelton. The same as on the other indictment.

Mr. Baron Garrow. Then those persons are here, and therefore there can be no difficulty in answering; they must be prepared now; and they must have been prepared before they presented the bill to the Grand Jury. Is that indictment intended to be proceeded in?

The prisoner was then arraigned on an indictment for perjury.

Mr. Baron Garrow. Are you ready to take your trial now, or do you wish to put it off till another sessions.

Prisoner. No; take it now, my Lord.

Mr. Shelton. The prisoner cannot demand a traverse.

Mr. Baron Garrow. They cannot demand to try him; the late act is in favor of the prosecutors; but this man is in custody.

Mr. Curwood. And was when the bill was found.

Mr. Baron Garrow. And if he could not have obtained bail, he must have remained in custody till the next session; therefore I expect an answer, whether the prosecutor proposes to proceed on this indictment now or at any other time, or whether he will take an acquittal; that answer will be with all the consequences that may follow upon it.

Mr. Baron Garrow. The prosecutor being in court, and no answer given, you will charge the jury with the prisoner, and I shall direct an acquittal.

Mr. Rushworth. I have no instructions to go on.

Mr. Baron Garrow. You are a witness on the back of the bill; you have the other witnesses in attendance, and you will now either proceed, or state your consent that the case should pass without evidence, at the peril of all the consequences that may attach upon your proceeding.

Mr. Rushworth. Against the next sessions I can have another witness.

Mr. Baron Garrow. Then you personally object on the part of the prosecutor?

Mr. Rushworth. Yes.

Mr. Baron Garrow. Then you are instructed for the prosecutors; I take for granted somebody will take a memorandum of what passes.

Mr. Serjeant Hullock. In the indictment on which the defendant has been tried, I ask for a copy of the indictment.

Mr. Baron Garrow. It is unnecessary for me to add any thing to what fell from my brother Bayley; but I think it would have been a most dangerous practice, if my brother had not immediately, on the prayer, given a copy of that indictment.

Mr. Curwood. I apprehend the party being in custody, whether for a misdemeanor or for felony, the bill being found while in custody, he is entitled to be tried, unless the prosecutor shews good reasons to the contrary; this bill was found, the party being in custody.

Mr. Baron Garrow. I have no difficulty in stating to you on the sudden, what my impression on that subject is; it entirely accords with what you have stated to the court. I am of opinion, that if an indictment for a misdemeanor is presented to the Grand Jury, and found by them, the defendant being in custody, the prosecutor necessarily having made all the preparation which he thought convenient, for the purpose of finding his bill, justice demands, and the defendant has a right to demand, that he may be then tried; and we are to look at these cases as they affect the community at large. It might be, that instead of his being surrounded with anxious friends, who come from a distance to speak to his character, he might be a friendless individual, without the means of obtaining his

deliverance, and without the means of preparing the evidence necessary; and therefore I am of opinion, that that which it seems to me is plain common justice, is the law of the case, and that he is entitled to demand his deliverance; but I think you may pause after what has passed, whether you will demand it.

Mr. Brodrick. My Lord—

Mr. Baron Garrow. No, it is of the latest now; I am answering an application of the defendant's counsel; you have now a person ostensible as the manager of the prosecution for perjury, who states, that the reason he does not proceed is, that by another sessions he will have other witnesses, and you will judge whether you think the deliverance of your client, where the prosecutor retires, will be satisfactory in the situation in which he stands; would you chuse to risk the coming up again at a great expense to take your deliverance, or to put yourselves in the hands of those, who by strict law have a right to bring you here again.

Mr. Justice Bayley. It is of course that he has a right to be tried now. I will tell you why I differ from my brother. I should recommend to the prisoner to claim and demand his trial, because I once knew, in another county, these circumstances occur. In a particular prosecution there was an indictment for perjury, committed at a previous assize. At a previous assize two witnesses, one of the name of Perryman, deposed to a particular fact. At the following assizes there was an indictment against one of these two witnesses for perjury, and against the person who had called that witness, for subornation of perjury; and upon the back of the bill was a person of the name, I think, of Mary Thorp; one witness was called, but it was necessary that there should be a second witness, in order to

make out the perjury, and Mary Thorp was not called, but Mary Perryman was. Mary Perryman then said, that she had been prevailed upon at the former assizes to state that which was not true, and that she had perjured herself at the former assizes; and then she was very penitent, and she came to set herself entirely right with the public, and to fix on the person who had called her as a witness, and on her co-witness, who had sworn to some facts, that punishment that belonged to the offence;—where was Mary Thorp? Mary Perryman was Mary Thorp; but there was no intimation on the back of the indictment, that Mary Perryman was to be called as a witness; and then they asked Perryman, is your name Thorp?—No. You have not married since the last assizes?—No. Did you go before the grand jury?—Yes. By what name?—Mary Thorp. Why did you do so?—Because I had associated with a man of the name of Thorp; that was the reason.—I mention that for this reason, that it shews there may be dealings on the back of an indictment, so that every description of information may be kept concealed from the person who is the prisoner in the case, and who is afterwards to take his trial for the prosecution; and in this instance there was one bill found in Middlesex, and the parties all reside in the county of York.

Mr. Brodrick. That was on the supposition that there were some informal words in the indictment.

Mr. Justice Bayley. However, the former case I can speak to of my own knowledge, being present at the time; and, therefore, if the prisoner has a right to be tried now, and unless there is some affidavit to put off the trial, I am of opinion the prisoner is entitled to be tried; I think his counsel would exercise a sound consideration, that he is in hands in

which it is possible he may be wrong in not desiring that he may be tried now.

Mr. Brodrick. I am not instructed to offer any evidence; but we are ready that the jury should be charged. After what has passed I do not hesitate to say, certainly, no evidence will be adduced on the part of the prosecution.

Mr. Baron Garrow. You have personally done what the court always know they may expect from you, when you are not fettered by your instructions.

[*The jury were then charged with the prisoner in the usual form*].

Mr. Baron Garrow. Gentlemen, in this case the prosecutor of the indictment declines to offer any evidence to establish what is imputed by the indictment; you can, therefore, have no difficulty in finding the prisoner not guilty.

[*The Jury immediately pronounced the Prisoner NOT GUILTY*].

Mr. Baron Garrow. Prisoner you may be immediately discharged.

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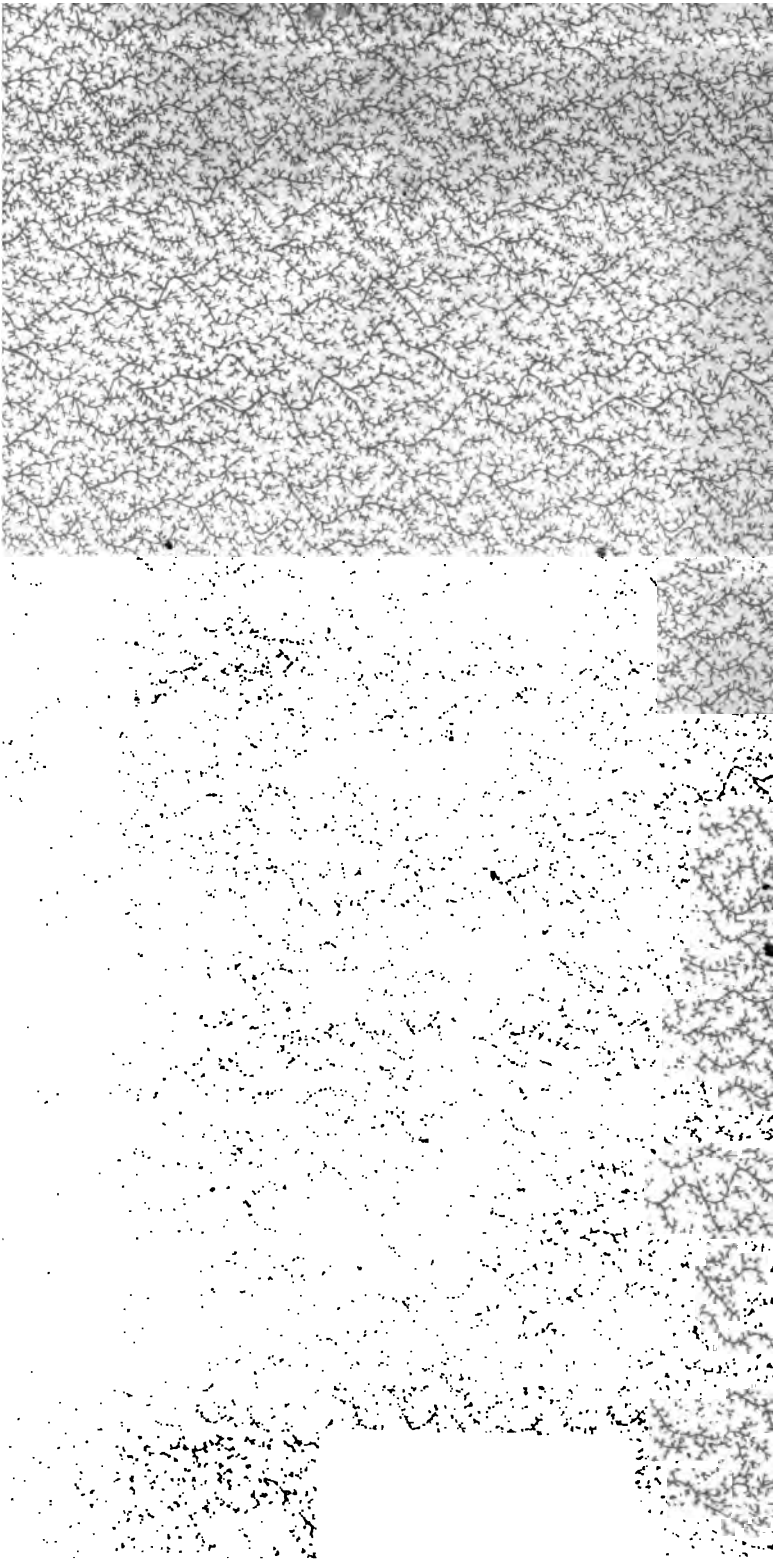
Printed by Luke Hansard & Sons,
near Lincoln's-Inn Fields, London.